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SENATE BILL NO. 1407

Offered January 13, 2021

Prefiled January 13, 2021

A *BILL to amend and reenact §§ 2.2-419, 2.2-2905, 2.2-3114, 2.2-3202, 2.2-3705.3, 2.2-3705.7, 2.2-3711, 2.2-4002, 8.01-195.11, 9.1-101, 9.1-801, 18.2-308.016, 18.2-325, 18.2-334.3, 18.2-340.22, 19.2-389, as it is currently effective and as it shall become effective, 37.2-314.2, 58.1-3, 58.1-302, 58.1-322.02, 58.1-460, 58.1-4000, 58.1-4002, 58.1-4003, 58.1-4006, 58.1-4007, 58.1-4008, 58.1-4009, 58.1-4011, 58.1-4012, 58.1-4020.1, 58.1-4025, 58.1-4027, 58.1-4100, and 59.1-148.3 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 3 of Title 11 a section numbered 11-16.3 and by adding in Chapter 40 of Title 58.1 an article numbered 3, consisting of sections numbered 58.1-4048 through 58.1-4075, relating to regulating electronic gaming devices; penalties.*

Patron—Bell

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-419, 2.2-2905, 2.2-3114, 2.2-3202, 2.2-3705.3, 2.2-3705.7, 2.2-3711, 2.2-4002, 8.01-195.11, 9.1-101, 9.1-801, 18.2-308.016, 18.2-325, 18.2-334.3, 18.2-340.22, 19.2-389, as it is currently effective and as it shall become effective, 37.2-314.2, 58.1-3, 58.1-302, 58.1-322.02, 58.1-460, 58.1-4000, 58.1-4002, 58.1-4003, 58.1-4006, 58.1-4007, 58.1-4008, 58.1-4009, 58.1-4011, 58.1-4012, 58.1-4020.1, 58.1-4025, 58.1-4027, 58.1-4100, and 59.1-148.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3 of Title 11 a section numbered 11-16.3 and by adding in Chapter 40 of Title 58.1 an article numbered 3, consisting of sections numbered 58.1-4048 through 58.1-4075, as follows:

§ 2.2-419. Definitions.

As used in this article, unless the context requires a different meaning:

"Anything of value" means:

1. A pecuniary item, including money, or a bank bill or note;
 2. A promissory note, bill of exchange, order, draft, warrant, check, or bond given for the payment of money;
 3. A contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
 4. A stock, bond, note, or other investment interest in an entity;
 5. A receipt given for the payment of money or other property;
 6. A right in action;
 7. A gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;
 8. A loan or forgiveness of indebtedness;
 9. A work of art, antique, or collectible;
 10. An automobile or other means of personal transportation;
 11. Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future, contingent or vested within realty, a leasehold interest, or other beneficial interest in realty;
 12. An honorarium or compensation for services;
 13. A rebate or discount in the price of anything of value unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that person's status as an executive or legislative official, or the sale or trade of something for reasonable compensation that would ordinarily not be available to a member of the public;
 14. A promise or offer of employment; or
 15. Any other thing of value that is pecuniary or compensatory in value to a person.
- "Anything of value" does not mean a campaign contribution properly received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2.
- "Compensation" means:
1. An advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money or anything of value; or
 2. A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money or anything of value, for services rendered or to be rendered.
- "Compensation" does not mean reimbursement of expenses if the reimbursement does not exceed the

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59 amount actually expended for the expenses and it is substantiated by an itemization of expenses.

60 "Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in
61 § 30-355.

62 "Executive action" means the proposal, drafting, development, consideration, amendment, adoption,
63 approval, promulgation, issuance, modification, rejection, or postponement by an executive agency or
64 official of legislation or executive orders issued by the Governor. "Executive action" includes
65 procurement transactions.

66 "Executive agency" means an agency, board, commission, or other body in the executive branch of
67 state government. "Executive agency" includes the State Corporation Commission, the Virginia Workers'
68 Compensation Commission, and the Virginia Lottery and Gaming Department.

69 "Executive official" means:

- 70 1. The Governor;
- 71 2. The Lieutenant Governor;
- 72 3. The Attorney General;
- 73 4. Any officer or employee of the office of the Governor, Lieutenant Governor, or Attorney General
74 other than a clerical or secretarial employee;
- 75 5. The Governor's Secretaries, the Deputy Secretaries, and the chief executive officer of each
76 executive agency; or
- 77 6. Members of supervisory and policy boards, commissions and councils, as defined in § 2.2-2100,
78 however selected.

79 "Expenditure" means:

- 80 1. A purchase, payment, distribution, loan, forgiveness of a loan or payment of a loan by a third
81 party, advance, deposit, transfer of funds, a promise to make a payment, or a gift of money or anything
82 of value for any purpose;
- 83 2. A payment to a lobbyist for salary, fee, reimbursement for expenses, or other purpose by a person
84 employing, retaining, or contracting for the services of the lobbyist separately or jointly with other
85 persons;
- 86 3. A payment in support of or assistance to a lobbyist or the lobbyist's activities, including the direct
87 payment of expenses incurred at the request or suggestion of the lobbyist;
- 88 4. A payment that directly benefits an executive or legislative official or a member of the official's
89 immediate family;
- 90 5. A payment, including compensation, payment, or reimbursement for the services, time, or expenses
91 of an employee for or in connection with direct communication with an executive or legislative official;
- 92 6. A payment for or in connection with soliciting or urging other persons to enter into direct
93 communication with an executive or legislative official; or
- 94 7. A payment or reimbursement for categories of expenditures required to be reported pursuant to
95 this chapter.

96 "Expenditure" does not mean a campaign contribution properly received and reported pursuant to
97 Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2.

98 "Fair market value" means the price that a good or service would bring between a willing seller and
99 a willing buyer in the open market after negotiations. If the fair market value cannot be determined, the
100 actual price paid for the good or service shall be given consideration.

101 "Gift" means anything of value, including any gratuity, favor, discount, entertainment, hospitality,
102 loan, forbearance, or other item having monetary value, and includes services as well as gifts of
103 transportation, local travel, lodgings, and meals, whether provided in-kind or by purchase of a ticket,
104 payment in advance, or reimbursement after the expense has been incurred.

105 "Gift" does not mean:

- 106 1. Printed informational or promotional material;
- 107 2. A gift that is not used and, no later than 60 days after receipt, is returned to the donor or
108 delivered to a charitable organization and is not claimed as a charitable contribution for federal income
109 tax purposes;
- 110 3. A devise or inheritance;
- 111 4. A gift of a value of less than \$20;
- 112 5. Any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission, or
113 pass is used;
- 114 6. Any food or beverages provided to an individual at an event at which the individual is performing
115 official duties related to his public service;
- 116 7. Any food and beverages received at or registration or attendance fees waived for any event at
117 which the individual is a featured speaker, presenter, or lecturer;
- 118 8. An unsolicited award of appreciation or recognition in the form of a plaque, trophy, wall
119 memento, or similar item that is given in recognition of public, civic, charitable, or professional service;
- 120 9. Any gift to an individual's spouse, child, uncle, aunt, niece, nephew, or first cousin; a person to

whom the donee is engaged to be married; the donee's or his spouse's parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, or step-sister; or the donee's brother's or sister's spouse or the donee's son-in-law or daughter-in-law;

10. Travel provided to facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative committee or commission, or a national conference where attendance is approved by the House Committee on Rules or its Chairman or the Senate Committee on Rules or its Chairman;

11. Travel related to an official meeting of, or any meal provided for attendance at such meeting by, the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment; or

12. Attendance at a reception or similar function where food, such as hors d'oeuvres, and beverages that can be conveniently consumed by a person while standing or walking are offered.

"Immediate family" means (i) the spouse and (ii) any other person who resides in the same household as the executive or legislative official and who is a dependent of the official.

"Legislative action" means:

1. Preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat, or rejection of a bill, resolution, amendment, motion, report, nomination, appointment, or other matter by the General Assembly or a legislative official;

2. Action by the Governor in approving, vetoing, or recommending amendments for a bill passed by the General Assembly; or

3. Action by the General Assembly in overriding or sustaining a veto by the Governor, considering amendments recommended by the Governor, or considering, confirming, or rejecting an appointment of the Governor.

"Legislative official" means:

1. A member or member-elect of the General Assembly;

2. A member of a committee, subcommittee, commission, or other entity established by and responsible to the General Assembly or either house of the General Assembly; or

3. Persons employed by the General Assembly or an entity established by and responsible to the General Assembly.

"Lobbying" means:

1. Influencing or attempting to influence executive or legislative action through oral or written communication with an executive or legislative official; or

2. Solicitation of others to influence an executive or legislative official.

"Lobbying" does not mean:

1. Requests for appointments, information on the status of pending executive and legislative actions, or other ministerial contacts if there is no attempt to influence executive or legislative actions;

2. Responses to published notices soliciting public comment submitted to the public official designated in the notice to receive the responses;

3. The solicitation of an association by its members to influence legislative or executive action; or

4. Communications between an association and its members and communications between a principal and its lobbyists.

"Lobbyist" means:

1. An individual who is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, for the purpose of lobbying;

2. An individual who represents an organization, association, or other group for the purpose of lobbying; or

3. A local government employee who lobbies.

"Lobbyist's principal" or "principal" means the entity on whose behalf the lobbyist influences or attempts to influence executive or legislative action. An organization whose employees conduct lobbying activities on its behalf is both a principal and an employer of the lobbyists. In the case of a coalition or association that employs or retains others to conduct lobbying activities on behalf of its membership, the principal is the coalition or association and not its individual members.

"Local government" means:

1. Any county, city, town, or other local or regional political subdivision;

2. Any school division;

3. Any organization or entity that exercises governmental powers that is established pursuant to an interstate compact; or

4. Any organization composed of members representing entities listed in subdivisions 1, 2, or 3 of

182 this definition.

183 "Local government employee" means a public employee of a local government.

184 "Person" means an individual, proprietorship, firm, partnership, joint venture, joint stock company,
185 syndicate, business trust, estate, company, corporation, association, club, committee, organization, or
186 group of persons acting in concert.

187 "Procurement transaction" means all functions that pertain to obtaining all goods, services, or
188 construction on behalf of an executive agency, including description of requirements, selection and
189 solicitation of sources, preparation and award of contract, and all phases of contract administration
190 where the stated or expected value of the contract is \$5 million or more.

191 "Secretary" means the Secretary of the Commonwealth.

192 "Value" means the actual cost or fair market value of an item or items, whichever is greater. If the
193 fair market value cannot be determined, the actual amount paid for the item or items shall be given
194 consideration.

195 "Widely attended event" means an event at which at least 25 persons have been invited to attend or
196 there is a reasonable expectation that at least 25 persons will attend the event and the event is open to
197 individuals (i) who are members of a public, civic, charitable, or professional organization, (ii) who are
198 from a particular industry or profession, or (iii) who represent persons interested in a particular issue.

199 **§ 2.2-2905. Certain officers and employees exempt from chapter.**

200 The provisions of this chapter shall not apply to:

- 201 1. Officers and employees for whom the Constitution specifically directs the manner of selection;
- 202 2. Officers and employees of the Supreme Court and the Court of Appeals;
- 203 3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either
204 house thereof is required or not;
- 205 4. Officers elected by popular vote or by the General Assembly or either house thereof;
- 206 5. Members of boards and commissions however selected;
- 207 6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of
208 accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and
209 notaries public;
- 210 7. Officers and employees of the General Assembly and persons employed to conduct temporary or
211 special inquiries, investigations, or examinations on its behalf;
- 212 8. The presidents and teaching and research staffs of state educational institutions;
- 213 9. Commissioned officers and enlisted personnel of the National Guard;
- 214 10. Student employees at institutions of higher education and patient or inmate help in other state
215 institutions;
- 216 11. Upon general or special authorization of the Governor, laborers, temporary employees, and
217 employees compensated on an hourly or daily basis;
- 218 12. County, city, town, and district officers, deputies, assistants, and employees;
- 219 13. The employees of the Virginia Workers' Compensation Commission;
- 220 14. The officers and employees of the Virginia Retirement System;
- 221 15. Employees whose positions are identified by the State Council of Higher Education and the
222 boards of the Virginia Museum of Fine Arts, The Science Museum of Virginia, the
223 Jamestown-Yorktown Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of
224 Natural History, the New College Institute, the Southern Virginia Higher Education Center, and The
225 Library of Virginia, and approved by the Director of the Department of Human Resource Management
226 as requiring specialized and professional training;
- 227 16. Employees of the Virginia Lottery and Gaming Department;
- 228 17. Employees of the Department for the Blind and Vision Impaired's rehabilitative manufacturing
229 and service industries who have a human resources classification of industry worker;
- 230 18. Employees of the Virginia Commonwealth University Health System Authority;
- 231 19. Employees of the University of Virginia Medical Center. Any changes in compensation plans for
232 such employees shall be subject to the review and approval of the Board of Visitors of the University of
233 Virginia. The University of Virginia shall ensure that its procedures for hiring University of Virginia
234 Medical Center personnel are based on merit and fitness. Such employees shall remain subject to the
235 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
- 236 20. In executive branch agencies the employee who has accepted serving in the capacity of chief
237 deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential
238 assistant for policy or administration. An employee serving in either one of these two positions shall be
239 deemed to serve on an employment-at-will basis. An agency may not exceed two employees who serve
240 in this exempt capacity;
- 241 21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the
242 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
- 243 22. Officers and employees of the Virginia Port Authority;

23. Employees of the Virginia College Savings Plan;

24. Directors of state facilities operated by the Department of Behavioral Health and Developmental Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to § 37.2-707. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

25. Employees of the Virginia Foundation for Healthy Youth. Such employees shall be treated as state employees for purposes of participation in the Virginia Retirement System, health insurance, and all other employee benefits offered by the Commonwealth to its classified employees;

26. Employees of the Virginia Indigent Defense Commission;

27. Any chief of a campus police department that has been designated by the governing body of a public institution of higher education as exempt, pursuant to § 23.1-809;

28. The Chief Executive Officer, agents, officers, and employees of the Virginia Alcoholic Beverage Control Authority; and

29. Officers and employees of the Fort Monroe Authority.

§ 2.2-3114. Disclosure by state officers and employees.

A. In accordance with the requirements set forth in § 2.2-3118.2, the Governor, Lieutenant Governor, Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of any circuit court, judges and substitute judges of any district court, members of the State Corporation Commission, members of the Virginia Workers' Compensation Commission, members of the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, members of the Board of the Virginia College Savings Plan, and members of the Virginia Lottery and Gaming Oversight Board and other persons occupying such offices or positions of trust or employment in state government, including members of the governing bodies of authorities, as may be designated by the Governor, or officers or employees of the legislative branch, as may be designated by the Joint Rules Committee of the General Assembly, shall file with the Council, as a condition to assuming office or employment, a disclosure statement of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

B. In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of all policy and supervisory boards, commissions and councils in the executive branch of state government, other than the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Board of the Virginia College Savings Plan, and the Virginia Lottery and Gaming Oversight Board, shall file with the Council, as a condition to assuming office, a disclosure form of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such form annually on or before February 1. Nonsalaried citizen members of other boards, commissions and councils, including advisory boards and authorities, may be required to file a disclosure form if so designated by the Governor, in which case the form shall be that prescribed by the Council pursuant to § 2.2-3118.

C. The disclosure forms required by subsections A and B shall be made available by the Council at least 30 days prior to the filing deadline. Disclosure forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. All forms shall be maintained as public records for five years in the office of the Council. Such forms shall be made public no later than six weeks after the filing deadline.

D. Candidates for the offices of Governor, Lieutenant Governor or Attorney General shall file a disclosure statement of their personal interests as required by § 24.2-502.

E. Any officer or employee of state government who has a personal interest in any transaction before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to subsection A of § 2.2-3112, or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate, and his disclosure shall also be reflected in the public records of the agency for five years in the office of the administrative head of the officer's or employee's governmental agency or advisory agency or, if the agency has a clerk, in the clerk's office.

F. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 1 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the members of which are affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his

305 governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for
306 public inspection such declaration for a period of five years from the date of recording or receipt. If
307 reasonable time is not available to comply with the provisions of this subsection prior to participation in
308 the transaction, the officer or employee shall prepare and file the required declaration by the end of the
309 next business day.

310 G. An officer or employee of state government who is required to declare his interest pursuant to
311 subdivision B 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a
312 party to the transaction is a client of his firm, (iii) that he does not personally represent or provide
313 services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in
314 the public interest. The officer or employee shall either make his declaration orally to be recorded in
315 written minutes for his agency or file a signed written declaration with the clerk or administrative head
316 of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make
317 available for public inspection such declaration for a period of five years from the date of recording or
318 receipt. If reasonable time is not available to comply with the provisions of this subsection prior to
319 participation in the transaction, the officer or employee shall prepare and file the required declaration by
320 the end of the next business day.

321 H. Notwithstanding any other provision of law, chairs of departments at a public institution of higher
322 education in the Commonwealth shall not be required to file the disclosure form prescribed by the
323 Council pursuant to § 2.2-3117 or 2.2-3118.

324 **§ 2.2-3202. Eligibility for transitional severance benefit.**

325 A. Any full-time employee of the Commonwealth (i) whose position is covered by the Virginia
326 Personnel Act (§ 2.2-2900 et seq.), (ii) whose position is exempt from the Virginia Personnel Act
327 pursuant to subdivisions 2, 4 (except those persons specified in subsection C of this section), 7, 15 or 16
328 of § 2.2-2905, (iii) who is employed by the State Corporation Commission, (iv) who is employed by the
329 Virginia Workers' Compensation Commission, (v) who is employed by the Virginia Retirement System,
330 (vi) who is employed by the Virginia Lottery and Gaming Department, (vii) who is employed by the
331 Medical College of Virginia Hospitals or the University of Virginia Medical Center, (viii) who is
332 employed at a state educational institution as faculty (including, but not limited to, presidents and
333 teaching and research faculty) as defined in the Consolidated Salary Authorization for Faculty Positions
334 in Institutions of Higher Education, 1994-95, or (ix) whose position is exempt from the Virginia
335 Personnel Act pursuant to subdivision 3, 20, 23, or 28 of § 2.2-2905; and (a) for whom reemployment
336 with the Commonwealth is not possible because there is no available position for which the employee is
337 qualified or the position offered to the employee requires relocation or a reduction in salary and (b)
338 whose involuntary separation was due to causes other than job performance or misconduct, shall be
339 eligible, under the conditions specified, for the transitional severance benefit conferred by this chapter.
340 The date of involuntary separation shall mean the date an employee was terminated from employment or
341 placed on leave without pay-layoff or equivalent status.

342 B. An otherwise eligible employee whose position is contingent upon project grants as defined in the
343 Catalogue of Federal Domestic Assistance, shall not be eligible for the transitional severance benefit
344 conferred by this chapter unless the funding source had agreed to assume all financial responsibility
345 therefor in its written contract with the Commonwealth.

346 C. Members of the Judicial Retirement System (§ 51.1-300 et seq.) and officers elected by popular
347 vote shall not be eligible for the transitional severance benefit conferred by this chapter.

348 D. Eligibility shall commence on the date of involuntary separation.

349 E. Persons authorized by § 2.2-106 or 51.1-124.22 to appoint a chief administrative officer or the
350 administrative head of an agency shall adhere to the same criteria for eligibility for transitional
351 severance benefits as is required for gubernatorial appointees pursuant to subsection A.

352 **§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative**
353 **investigations.**

354 The following information contained in a public record is excluded from the mandatory disclosure
355 provisions of this chapter but may be disclosed by the custodian in his discretion, except where such
356 disclosure is prohibited by law. Redaction of information excluded under this section from a public
357 record shall be conducted in accordance with § 2.2-3704.01.

358 1. Information relating to investigations of applicants for licenses and permits, and of all licensees
359 and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, the Virginia
360 Lottery and Gaming Department, the Virginia Racing Commission, the Department of Agriculture and
361 Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et
362 seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal
363 Justice Services.

364 2. Records of active investigations being conducted by the Department of Health Professions or by
365 any health regulatory board in the Commonwealth pursuant to § 54.1-108.

366 3. Investigator notes, and other correspondence and information, furnished in confidence with respect

to an active investigation of individual employment discrimination complaints made to the Department of Human Resource Management, to such personnel of any local public body, including local school boards, as are responsible for conducting such investigations in confidence, or to any public institution of higher education. However, nothing in this subdivision shall prevent the disclosure of information taken from inactive reports in a form that does not reveal the identity of charging parties, persons supplying the information, or other individuals involved in the investigation.

4. Records of active investigations being conducted by the Department of Medical Assistance Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

5. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior to July 1, 1987, in accordance with applicable law, relating to local human rights or human relations commissions. However, nothing in this subdivision shall prevent the distribution of information taken from inactive reports in a form that does not reveal the identity of the parties involved or other persons supplying information.

6. Information relating to studies and investigations by the Virginia Lottery and Gaming Department of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or regulations that cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where such information has not been publicly released, published or copyrighted. All studies and investigations referred to under clauses (iii), (iv), and (v) shall be open to inspection and copying upon completion of the study or investigation.

7. Investigative notes, correspondence and information furnished in confidence, and records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the Auditor of Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate authority as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector General with respect to an investigation initiated through the Fraud, Waste and Abuse Hotline or an investigation initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) internal auditors appointed by the head of a state agency or by any public institution of higher education; (vi) the committee or the auditor with respect to an investigation or audit conducted pursuant to § 15.2-825; or (vii) the auditors, appointed by the local governing body of any county, city, or town or a school board, who by charter, ordinance, or statute have responsibility for conducting an investigation of any officer, department, or program of such body. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of the complainants or persons supplying information to investigators. Unless disclosure is excluded by this subdivision, the information disclosed shall include the agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person. Local governing bodies shall adopt guidelines to govern the disclosure required by this subdivision.

8. The names, addresses, and telephone numbers of complainants furnished in confidence with respect to an investigation of individual zoning enforcement complaints or complaints relating to the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) made to a local governing body.

9. Records of active investigations being conducted by the Department of Criminal Justice Services pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.), and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

10. Information furnished to or prepared by the Board of Education pursuant to subsection D of § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests by local school board employees responsible for the distribution or administration of the tests. However, this section shall not prohibit the disclosure of such information to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board.

11. Information contained in (i) an application for licensure or renewal of a license for teachers and other school personnel, including transcripts or other documents submitted in support of an application, and (ii) an active investigation conducted by or for the Board of Education related to the denial, suspension, cancellation, revocation, or reinstatement of teacher and other school personnel licenses

including investigator notes and other correspondence and information, furnished in confidence with respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a) application information to the applicant at his own expense or (b) investigation information to a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of any complainant or person supplying information to investigators. The completed investigation information disclosed shall include information regarding the school or facility involved, the identity of the person who was the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation fails to support a complaint or does not lead to corrective action, the identity of the person who was the subject of the complaint may be released only with the consent of the subject person. No personally identifiable information regarding a current or former student shall be released except as permitted by state or federal law.

12. Information provided in confidence and related to an investigation by the Attorney General under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, information related to an investigation that has been inactive for more than six months shall, upon request, be disclosed provided such disclosure is not otherwise prohibited by law and does not reveal the identity of charging parties, complainants, persons supplying information, witnesses, or other individuals involved in the investigation.

13. Records of active investigations being conducted by the Department of Behavioral Health and Developmental Services pursuant to Chapter 4 (§ 37.2-400 et seq.) of Title 37.2.

§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exclusions.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. State income, business, and estate tax returns, personal property tax returns, and confidential records held pursuant to § 58.1-3.

2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in the Commonwealth. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Further, information publicly available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

"Members of the General Assembly" means each member of the Senate of Virginia and the House of Delegates and their legislative aides when working on behalf of such member.

"Office of the Governor" means the Governor; the Governor's chief of staff, counsel, director of policy, and Cabinet Secretaries; the Assistant to the Governor for Intergovernmental Affairs; and those individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

"Working papers" means those records prepared by or for a public official identified in this subdivision for his personal or deliberative use.

3. Information contained in library records that can be used to identify (i) both (a) any library patron who has borrowed or accessed material or resources from a library and (b) the material or resources such patron borrowed or accessed or (ii) any library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent, including a noncustodial parent, or guardian of such library patron.

4. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services, and records and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

6. Information furnished by a member of the General Assembly to a meeting of a standing

committee, special committee, or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory opinions to members on standards of conduct, or both.

7. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money charged or paid for such utility service.

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

10. Information on the site-specific location of rare, threatened, endangered, or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exclusion shall not apply to requests from the owner of the land upon which the resource is located.

11. Memoranda, graphics, video or audio tapes, production models, data, and information of a proprietary nature produced by or for or collected by or for the Virginia Lottery *and Gaming Department* relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such information not been publicly released, published, copyrighted, or patented. Whether released, published, or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for post-retirement benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses prepared for the board of visitors of the University of Virginia, prepared for the board of visitors of The College of William and Mary in Virginia, prepared by the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan, or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality of the future value of such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of William and Mary in Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

13. Financial, medical, rehabilitative, and other personal information concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

14. Information held by the Virginia Commonwealth University Health System Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in

551 awarding contracts for construction or the purchase of goods or services; information of a proprietary
552 nature produced or collected by or for the Authority or members of its medical or teaching staffs;
553 financial statements not publicly available that may be filed with the Authority from third parties; the
554 identity, accounts, or account status of any customer of the Authority; consulting or other reports paid
555 for by the Authority to assist the Authority in connection with its strategic planning and goals; the
556 determination of marketing and operational strategies where disclosure of such strategies would be
557 harmful to the competitive position of the Authority; and information of a proprietary nature produced
558 or collected by or for employees of the Authority, other than the Authority's financial or administrative
559 records, in the conduct of or as a result of study or research on medical, scientific, technical, or
560 scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body
561 or a private concern, when such information has not been publicly released, published, copyrighted, or
562 patented. This exclusion shall also apply when such information is in the possession of Virginia
563 Commonwealth University.

564 15. Information held by the Department of Environmental Quality, the State Water Control Board,
565 the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active
566 federal environmental enforcement actions that are considered confidential under federal law and (ii)
567 enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such
568 information shall be disclosed after a proposed sanction resulting from the investigation has been
569 proposed to the director of the agency. This subdivision shall not be construed to prevent the disclosure
570 of information related to inspection reports, notices of violation, and documents detailing the nature of
571 any environmental contamination that may have occurred or similar documents.

572 16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel
573 itinerary, including vehicle identification data or vehicle enforcement system information; video or
574 photographic images; Social Security or other identification numbers appearing on driver's licenses;
575 credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll
576 facility use.

577 17. Information held by the Virginia Lottery and Gaming Department pertaining to (i) the social
578 security number, tax identification number, state sales tax number, home address and telephone number,
579 personal and lottery banking account and transit numbers of a retailer, and financial information
580 regarding the nonlottery operations of specific retail locations and (ii) individual lottery winners, except
581 that a winner's name, hometown, and amount won shall be disclosed. If the value of the prize won by
582 the winner exceeds \$10 million, the information described in clause (ii) shall not be disclosed unless the
583 winner consents in writing to such disclosure.

584 18. Information held by the Board for Branch Pilots relating to the chemical or drug testing of a
585 person regulated by the Board, where such person has tested negative or has not been the subject of a
586 disciplinary action by the Board for a positive test result.

587 19. Information pertaining to the planning, scheduling, and performance of examinations of holder
588 records pursuant to the Virginia Disposition of Unclaimed Property Act (§ 55.1-2500 et seq.) prepared
589 by or for the State Treasurer or his agents or employees or persons employed to perform an audit or
590 examination of holder records.

591 20. Information held by the Virginia Department of Emergency Management or a local governing
592 body relating to citizen emergency response teams established pursuant to an ordinance of a local
593 governing body that reveal the name, address, including e-mail address, telephone or pager numbers, or
594 operating schedule of an individual participant in the program.

595 21. Information held by state or local park and recreation departments and local and regional park
596 authorities concerning identifiable individuals under the age of 18 years. However, nothing in this
597 subdivision shall operate to prevent the disclosure of information defined as directory information under
598 regulations implementing the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g,
599 unless the public body has undertaken the parental notification and opt-out requirements provided by
600 such regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian
601 of such person, unless the parent's parental rights have been terminated or a court of competent
602 jurisdiction has restricted or denied such access. For such information of persons who are emancipated,
603 the right of access may be asserted by the subject thereof. Any parent or emancipated person who is the
604 subject of the information may waive, in writing, the protections afforded by this subdivision. If the
605 protections are so waived, the public body shall open such information for inspection and copying.

606 22. Information submitted for inclusion in the Statewide Alert Network administered by the
607 Department of Emergency Management that reveal names, physical addresses, email addresses, computer
608 or internet protocol information, telephone numbers, pager numbers, other wireless or portable
609 communications device information, or operating schedules of individuals or agencies, where the release
610 of such information would compromise the security of the Statewide Alert Network or individuals
611 participating in the Statewide Alert Network.

612 23. Information held by the Judicial Inquiry and Review Commission made confidential by

§ 17.1-913.

24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings Plan on the pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the execution of such investment strategies or the selection or termination of such managers, if disclosure of such information would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan; and

b. Trade secrets provided by a private entity to the retirement system or the Virginia College Savings Plan if disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan.

For the records specified in subdivision b to be excluded from the provisions of this chapter, the entity shall make a written request to the retirement system or the Virginia College Savings Plan:

(1) Invoking such exclusion prior to or upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The retirement system or the Virginia College Savings Plan shall determine whether the requested exclusion from disclosure meets the requirements set forth in subdivision b.

Nothing in this subdivision shall be construed to prevent the disclosure of the identity or amount of any investment held or the present value and performance of all asset classes and subclasses.

25. Information held by the Department of Corrections made confidential by § 53.1-233.

26. Information maintained by the Department of the Treasury or participants in the Local Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the Department to establish accounts in accordance with § 2.2-4602.

27. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers, except that access shall not be denied to the person who is the subject of the information.

28. Information maintained in connection with fundraising activities by the Veterans Services Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone number, social security number or other identification number appearing on a driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the information. Nothing in this subdivision, however, shall be construed to prevent the disclosure of information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor, unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.

29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the training of state prosecutors or law-enforcement personnel, where such information is not otherwise available to the public and the disclosure of such information would reveal confidential strategies, methods, or procedures to be employed in law-enforcement activities or materials created for the investigation and prosecution of a criminal case.

30. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.

31. Information created or maintained by or on the behalf of the judicial performance evaluation program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.

32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are discussed by any sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5, or (iii) individual cases of abuse, neglect, or exploitation of adults as defined in § 63.2-1603 are discussed by multidisciplinary teams established pursuant to §§ 15.2-1627.5 and 63.2-1605. The findings of any such team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the

Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target companies, specific allocation of resources and staff for marketing activities, and specific marketing activities that would reveal to the Commonwealth's competitors for economic development projects the strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and operational plan shall not be redacted or withheld pursuant to this subdivision.

34. Information discussed in a closed session of the Physical Therapy Compact Commission or the Executive Board or other committees of the Commission for purposes set forth in subsection E of § 54.1-3491.

35. Information held by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, relating to (i) internal deliberations of or decisions by the Authority on the pursuit of particular investment strategies prior to the execution of such investment strategies and (ii) trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a private entity to the Authority, if such disclosure of records pursuant to clause (i) or (ii) would have an adverse impact on the financial interest of the Authority or a private entity.

36. Personal information provided to or obtained by the Virginia Lottery and Gaming Department in connection with the voluntary exclusion program administered pursuant to § 58.1-4015.1.

37. Personal information provided to or obtained by the Virginia Lottery and Gaming Department concerning the identity of any person reporting prohibited conduct pursuant to § 58.1-4043.

§ 2.2-3711. Closed meetings authorized for certain limited purposes.

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of

matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

11. Discussion or consideration of honorary degrees or special awards.

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

13. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. Deliberations of the Virginia Lottery and Gaming Oversight Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery and Gaming Department matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of

797 Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia
798 College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or
799 the Virginia College Savings Plan under a promise of confidentiality, of the future value of such
800 ownership interest or the future financial performance of the entity, and (ii) would have an adverse
801 effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a
802 local finance board or board of trustees, the board of visitors of the University of Virginia, or the
803 Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure
804 of information relating to the identity of any investment held, the amount invested or the present value
805 of such investment.

806 21. Those portions of meetings in which individual child death cases are discussed by the State Child
807 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which
808 individual child death cases are discussed by a regional or local child fatality review team established
809 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by
810 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in
811 which individual adult death cases are discussed by the state Adult Fatality Review Team established
812 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed
813 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of
814 meetings in which individual death cases are discussed by overdose fatality review teams established
815 pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are
816 discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of
817 meetings in which individual death cases of persons with developmental disabilities are discussed by the
818 Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

819 22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern
820 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any
821 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern
822 Virginia Medical School, as the case may be, have been delegated, in which there is discussed
823 proprietary, business-related information pertaining to the operations of the University of Virginia
824 Medical Center or Eastern Virginia Medical School, as the case may be, including business development
825 or marketing strategies and activities with existing or future joint venturers, partners, or other parties
826 with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case
827 may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such
828 information would adversely affect the competitive position of the Medical Center or Eastern Virginia
829 Medical School, as the case may be.

830 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority
831 or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or
832 disposition by the Authority of real property, equipment, or technology software or hardware and related
833 goods or services, where disclosure would adversely affect the bargaining position or negotiating
834 strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the
835 Authority; grants and contracts for services or work to be performed by the Authority; marketing or
836 operational strategies plans of the Authority where disclosure of such strategies or plans would adversely
837 affect the competitive position of the Authority; and members of the Authority's medical and teaching
838 staffs and qualifications for appointments thereto.

839 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within
840 the Department of Health Professions to the extent such discussions identify any practitioner who may
841 be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

842 25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein
843 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees
844 by or on behalf of individuals who have requested information about, applied for, or entered into
845 prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.)
846 of Title 23.1 is discussed.

847 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
848 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in §
849 56-484.12, related to the provision of wireless E-911 service.

850 27. Those portions of disciplinary proceedings by any regulatory board within the Department of
851 Professional and Occupational Regulation, Department of Health Professions, or the Board of
852 Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach
853 a decision or meetings of health regulatory boards or conference committees of such boards to consider
854 settlement proposals in pending disciplinary actions or modifications to previously issued board orders as
855 requested by either of the parties.

856 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of
857 § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are
858 defined in § 33.2-1800, or any independent review panel appointed to review information and advise

the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files subject to the exclusion in subdivision B 1 of § 2.2-3706.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of

920 the information or transformed into a statistical or aggregate form that does not allow identification of
921 the person who supplied, or is the subject of, the information.

922 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control
923 Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to
924 investigations of applicants for licenses and permits and of licensees and permittees.

925 47. Discussion or consideration of grant, loan, or investment application records subject to the
926 exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11
927 (§ 2.2-2351 et seq.) of Chapter 22.

928 48. Discussion or development of grant proposals by a regional council established pursuant to
929 Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth
930 and Opportunity Board.

931 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response
932 team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses
933 involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii)
934 individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to
935 §§ 15.2-1627.5 and 63.2-1605.

936 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership
937 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the
938 portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to
939 subdivision 33 of § 2.2-3705.7.

940 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic
941 Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and
942 discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of
943 § 60.2-114.

944 52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority
945 (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority,
946 of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

947 53. Deliberations of the Virginia Lottery and Gaming Oversight Board in a licensing appeal action
948 conducted pursuant to § 58.1-4105 regarding the denial or revocation of a license of a casino gaming
949 operator and discussion, consideration, or review of matters related to investigations exempt from
950 disclosure under subdivision 1 of § 2.2-3705.3.

951 54. Deliberations of the Virginia Lottery and Gaming Oversight Board in an appeal conducted
952 pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew a
953 permit related to sports betting and any discussion, consideration, or review of matters related to
954 investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

955 55. *Deliberations of the Virginia Lottery and Gaming Oversight Board in an appeal conducted*
956 *pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew a*
957 *license related to electronic gaming devices and any discussion, consideration, or review of matters*
958 *related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.*

959 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a
960 closed meeting shall become effective unless the public body, following the meeting, reconvenes in open
961 meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or
962 motion that shall have its substance reasonably identified in the open meeting.

963 C. Public officers improperly selected due to the failure of the public body to comply with the other
964 provisions of this section shall be de facto officers and, as such, their official actions are valid until they
965 obtain notice of the legal defect in their election.

966 D. Nothing in this section shall be construed to prevent the holding of conferences between two or
967 more public bodies, or their representatives, but these conferences shall be subject to the same
968 procedures for holding closed meetings as are applicable to any other public body.

969 E. This section shall not be construed to (i) require the disclosure of any contract between the
970 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1
971 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant
972 to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body
973 empowered to issue industrial revenue bonds by general or special law, to identify a business or industry
974 to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of
975 public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance
976 of such bonds.

977 **§ 2.2-4002. Exemptions from chapter generally.**

978 A. Although required to comply with § 2.2-4103 of the Virginia Register Act (§ 2.2-4100 et seq.),
979 the following agencies shall be exempted from the provisions of this chapter, except to the extent that
980 they are specifically made subject to §§ 2.2-4024, 2.2-4030, and 2.2-4031:

981 1. The General Assembly.

2. Courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

3. The Department of Wildlife Resources in promulgating regulations regarding the management of wildlife and for all case decisions rendered pursuant to any provisions of Chapters 2 (§ 29.1-200 et seq.), 3 (§ 29.1-300 et seq.), 4 (§ 29.1-400 et seq.), 5 (§ 29.1-500 et seq.), and 7 (§ 29.1-700 et seq.) of Title 29.1.

4. The Virginia Housing Development Authority.

5. Municipal corporations, counties, and all local, regional or multijurisdictional authorities created under this Code, including those with federal authorities.

6. Educational institutions operated by the Commonwealth, provided that, with respect to § 2.2-4031, such educational institutions shall be exempt from the publication requirements only with respect to regulations that pertain to (i) their academic affairs, (ii) the selection, tenure, promotion and disciplining of faculty and employees, (iii) the selection of students, and (iv) rules of conduct and disciplining of students.

7. The Milk Commission in promulgating regulations regarding (i) producers' licenses and bases, (ii) classification and allocation of milk, computation of sales and shrinkage, and (iii) class prices for producers' milk, time and method of payment, butterfat testing and differential.

8. The Virginia Resources Authority.

9. Agencies expressly exempted by any other provision of this Code.

10. The Department of General Services in promulgating standards for the inspection of buildings for asbestos pursuant to § 2.2-1164.

11. The State Council of Higher Education for Virginia, in developing, issuing, and revising guidelines pursuant to § 23.1-207.

12. The Commissioner of Agriculture and Consumer Services in adopting regulations pursuant to subsection B of § 3.2-6002 and in adopting regulations pursuant to § 3.2-6023.

13. The Commissioner of Agriculture and Consumer Services and the Board of Agriculture and Consumer Services in promulgating regulations pursuant to subsections B and D of § 3.2-3601, subsection B of § 3.2-3701, § 3.2-4002, subsections B and D of § 3.2-4801, §§ 3.2-5121 and 3.2-5206, and subsection A of § 3.2-5406.

14. The Board of Optometry when specifying therapeutic pharmaceutical agents, treatment guidelines, and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification of optometrists pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1.

15. The Commissioner of the Department of Veterans Services in adopting regulations pursuant to § 2.2-2001.3.

16. The State Board of Education, in developing, issuing, and revising guidelines pursuant to § 22.1-203.2.

17. The Virginia Racing Commission, (i) when acting by and through its duly appointed stewards or in matters related to any specific race meeting or (ii) in promulgating technical rules regulating actual live horse racing at race meetings licensed by the Commission.

18. The Virginia Small Business Financing Authority.

19. The Virginia Economic Development Partnership Authority.

20. The Board of Agriculture and Consumer Services in adopting, amending or repealing regulations pursuant to subsection A (ii) of § 59.1-156.

21. The Insurance Continuing Education Board pursuant to § 38.2-1867.

22. The Board of Health in promulgating the list of diseases that shall be reported to the Department of Health pursuant to § 32.1-35 and in adopting, amending or repealing regulations pursuant to subsection C of § 35.1-14 that incorporate the Food and Drug Administration's Food Code pertaining to restaurants or food service.

23. The Board of Pharmacy when specifying special subject requirements for continuing education for pharmacists pursuant to § 54.1-3314.1.

24. The Virginia Department of Veterans Services when promulgating rules and regulations pursuant to § 58.1-3219.7 or 58.1-3219.11.

25. The Virginia Department of Criminal Justice Services when developing, issuing, or revising any training standards established by the Criminal Justice Services Board under § 9.1-102, provided such actions are authorized by the Governor in the interest of public safety.

B. Agency action relating to the following subjects shall be exempted from the provisions of this chapter:

1. Money or damage claims against the Commonwealth or agencies thereof.

2. The award or denial of state contracts, as well as decisions regarding compliance therewith.

3. The location, design, specifications or construction of public buildings or other facilities.

4. Grants of state or federal funds or property.

- 1043 5. The chartering of corporations.
1044 6. Customary military, militia, naval or police functions.
1045 7. The selection, tenure, dismissal, direction or control of any officer or employee of an agency of
1046 the Commonwealth.
1047 8. The conduct of elections or eligibility to vote.
1048 9. Inmates of prisons or other such facilities or parolees therefrom.
1049 10. The custody of persons in, or sought to be placed in, mental health facilities or penal or other
1050 state institutions as well as the treatment, supervision, or discharge of such persons.
1051 11. Traffic signs, markers or control devices.
1052 12. Instructions for application or renewal of a license, certificate, or registration required by law.
1053 13. Content of, or rules for the conduct of, any examination required by law.
1054 14. The administration of pools authorized by Chapter 47 (§ 2.2-4700 et seq.).
1055 15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent
1056 with duly adopted regulations of the Virginia Lottery and Gaming Oversight Board, and provided that
1057 such regulations are published and posted.
1058 16. Orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish,
1059 finfish or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8 of Title 28.2.
1060 17. Any operating procedures for review of child deaths developed by the State Child Fatality
1061 Review Team pursuant to § 32.1-283.1, any operating procedures for review of adult deaths developed
1062 by the Adult Fatality Review Team pursuant to § 32.1-283.5, any operating procedures for review of
1063 adult deaths developed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and any
1064 operating procedures for review of the deaths of persons with a developmental disability developed by
1065 the Developmental Disabilities Mortality Review Committee pursuant to § 37.2-314.1.
1066 18. The regulations for the implementation of the Health Practitioners' Monitoring Program and the
1067 activities of the Health Practitioners' Monitoring Program Committee pursuant to Chapter 25.1 (§
1068 54.1-2515 et seq.) of Title 54.1.
1069 19. The process of reviewing and ranking grant applications submitted to the Commonwealth
1070 Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title
1071 51.5.
1072 20. Loans from the Small Business Environmental Compliance Assistance Fund pursuant to Article 4
1073 (§ 10.1-1197.1 et seq.) of Chapter 11.1 of Title 10.1.
1074 21. The Virginia Breeders Fund created pursuant to § 59.1-372.
1075 22. The types of pari-mutuel wagering pools available for live or simulcast horse racing.
1076 23. The administration of medication or other substances foreign to the natural horse.
1077 24. Any rules adopted by the Charitable Gaming Board for the approval and conduct of game
1078 variations for the conduct of raffles, bingo, network bingo, and instant bingo games, provided that such
1079 rules are (i) consistent with Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 and (ii)
1080 published and posted.
1081 C. Minor changes to regulations published in the Virginia Administrative Code under the Virginia
1082 Register Act (§ 2.2-4100 et seq.), made by the Virginia Code Commission pursuant to § 30-150, shall be
1083 exempt from the provisions of this chapter.
1084 **§ 8.01-195.11. Compensation for wrongful incarceration.**
1085 A. Any person who is convicted of a felony by a county or city circuit court of the Commonwealth
1086 and is wrongfully incarcerated for such felony may be awarded compensation in an amount equal to 90
1087 percent of the inflation adjusted Virginia per capita personal income as reported by the Bureau of
1088 Economic Analysis of the U.S. Department of Commerce for each year of incarceration, or portion
1089 thereof.
1090 B. Any compensation computed pursuant to subsection A and approved by the General Assembly
1091 shall be paid by the Comptroller by his warrant on the State Treasurer in favor of the person found to
1092 have been wrongfully incarcerated. The person wrongfully incarcerated shall be paid an initial lump sum
1093 equal to 20 percent of the compensation award with the remaining 80 percent of the principal of the
1094 compensation award to be used by the State Treasurer to purchase an annuity from any A+ rated
1095 company, including any A+ rated company from which the Virginia Lottery and Gaming Department
1096 may purchase an annuity, to provide equal monthly payments to such person for a period certain of 25
1097 years commencing no later than one year after the effective date of the appropriation; however, if such
1098 person's life expectancy, as calculated pursuant to the provisions of § 8.01-419 based on his age on the
1099 effective date of the appropriation, is less than 25 years, then, upon his election, the annuity period shall
1100 be equal to his life expectancy. The annuity shall provide that it shall not be sold, discounted, or used as
1101 securitization for loans and mortgages by the person awarded compensation. The annuity shall, however,
1102 contain beneficiary provisions providing for the annuity's continued disbursement in the event of the
1103 death of the person awarded compensation. All payments or costs of annuities under this section shall be
1104 made by check issued by the State Treasurer on warrant of the Comptroller.

Notwithstanding the foregoing, in the event that the person wrongfully incarcerated is 60 years of age or older or is terminally ill, the General Assembly may (i) pay 100 percent of the compensation computed pursuant to subsection A as a lump sum to the person wrongfully incarcerated or (ii) purchase an annuity for a period certain that is less than 25 years. For the purposes of this section, "terminally ill" means that the individual has a medical prognosis, as certified by a licensed physician, that his life expectancy is five years or less if the illness runs its normal course.

C. Any person who is convicted of a felony by a county or city circuit court of the Commonwealth and is wrongfully incarcerated for such felony shall receive a transition assistance grant of \$15,000 to be paid from the Criminal Fund, which amount shall be deducted from any award received pursuant to subsection B, within 30 days of receipt of the written request for the disbursement of the transition assistance grant to the Executive Secretary of the Supreme Court of Virginia. Payment of the transition assistance grant from the Criminal Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Secretary of the Supreme Court of Virginia. In addition, such person shall be entitled to receive reimbursement up to \$10,000 for tuition for career and technical training within the Virginia Community College System contingent upon successful completion of the training. Reimbursement for tuition shall be provided by the comprehensive community college at which the career or technical training was completed.

§ 9.1-101. Definitions.

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal

1166 justice agency maintaining the information who have both a need and right to know the information.

1167 "Law-enforcement officer" means any full-time or part-time employee of a police department or
1168 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision
1169 thereof, or any full-time or part-time employee of a private police department, and who is responsible
1170 for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of
1171 the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control
1172 Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia
1173 Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement
1174 division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the
1175 security division of the Virginia Lottery and Gaming Department; (vi) conservation officer of the
1176 Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn
1177 member of the enforcement division of the Department of Motor Vehicles appointed pursuant to
1178 § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus
1179 police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of
1180 the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate
1181 allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee
1182 with internal investigations authority designated by the Department of Corrections pursuant to
1183 subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of
1184 § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are
1185 those compensated officers who are not full-time employees as defined by the employing police
1186 department, sheriff's office, or private police department.

1187 "Private police department" means any police department, other than a department that employs
1188 police agents under the provisions of § 56-353, that employs private police officers operated by an entity
1189 authorized by statute or an act of assembly to establish a private police department or such entity's
1190 successor in interest, provided it complies with the requirements set forth herein. No entity is authorized
1191 to operate a private police department or represent that it is a private police department unless such
1192 entity has been authorized by statute or an act of assembly or such entity is the successor in interest of
1193 an entity that has been authorized pursuant to this section, provided it complies with the requirements
1194 set forth herein. The authority of a private police department shall be limited to real property owned,
1195 leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous
1196 property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the
1197 local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The
1198 chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum
1199 of understanding with the private police department that addresses the duties and responsibilities of the
1200 private police department and the chief law-enforcement officer in the conduct of criminal investigations.
1201 Private police departments and private police officers shall be subject to and comply with the
1202 Constitution of the United States; the Constitution of Virginia; the laws governing municipal police
1203 departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721,
1204 and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable
1205 to private police departments. Any person employed as a private police officer pursuant to this section
1206 shall meet all requirements, including the minimum compulsory training requirements, for
1207 law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits
1208 under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a
1209 "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of
1210 the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an
1211 employee of the Commonwealth or any locality. An authorized private police department may use the
1212 word "police" to describe its sworn officers and may join a regional criminal justice academy created
1213 pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in
1214 existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and
1215 whose status as a private police department was recognized by the Department at that time is hereby
1216 validated and may continue to operate as a private police department as may such entity's successor in
1217 interest, provided it complies with the requirements set forth herein.

1218 "School resource officer" means a certified law-enforcement officer hired by the local
1219 law-enforcement agency to provide law-enforcement and security services to Virginia public elementary
1220 and secondary schools.

1221 "School security officer" means an individual who is employed by the local school board or a private
1222 or religious school for the singular purpose of maintaining order and discipline, preventing crime,
1223 investigating violations of the policies of the school board or the private or religious school, and
1224 detaining students violating the law or the policies of the school board or the private or religious school
1225 on school property, school buses, or at school-sponsored events and who is responsible solely for
1226 ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned
1227 school.

"Unapplied criminal history record information" means information pertaining to criminal offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an arrested or convicted person (i) because such information is not supported by fingerprints or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the submitted information.

§ 9.1-801. Public safety officer defined.

As used in this chapter, the term "public safety officer" includes a law-enforcement officer of the Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a correctional officer employed at a juvenile correctional facility as the term is defined in § 66-25.3; a jail officer; a regional jail or jail farm superintendent; a member of any fire company or department or nonprofit or volunteer emergency medical services agency that has been recognized by an ordinance or resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of the official safety program of such county, city, or town; an arson investigator; a member of the Virginia National Guard or the Virginia Defense Force while such a member is serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Authority; any police agent appointed under the provisions of § 56-353; any regular or special conservation police officer who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant to § 29.1-200; any commissioned forest warden appointed pursuant to § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power to arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials officer; any nonfirefighter regional hazardous materials emergency response team member; any investigator who is a full-time sworn member of the security division of the Virginia Lottery and Gaming Department; any full-time sworn member of the enforcement division of the Department of Motor Vehicles meeting the Department of Criminal Justice Services qualifications, when fulfilling duties pursuant to § 46.2-217; any campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115.

§ 11-16.3. Exemption; play of authorized electronic gaming devices.

This chapter shall not apply to the play of electronic gaming devices or related activity that is lawful under Article 3 (§ 58.1-4048 et seq.) of Chapter 40 of Title 58.1 or to any contract, conduct, or transaction arising from conduct lawful thereunder.

§ 18.2-308.016. Retired law-enforcement officers; carrying a concealed handgun.

A. Except as provided in subsection A of § 18.2-308.012, § 18.2-308 shall not apply to:

1. Any State Police officer retired from the Department of State Police, any officer retired from the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired from a police department or sheriff's office within the Commonwealth, any special agent retired from the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority, any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 retired from the Department of Corrections, any conservation police officer retired from the Department of Wildlife Resources, any conservation officer retired from the Department of Conservation and Recreation, any Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources Commission, any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 retired from a campus police department, any retired member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any retired investigator of the security division of the Virginia Lottery and Gaming Department, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at least 10 years of service with any such law-enforcement agency, commission, board, or any combination thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a service-related injury, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency from which the officer retired or the agency that employs the officer or, in the case of special agents, issued by the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An officer set forth in clause (iv) who receives written proof of consultation to carry a concealed handgun shall surrender such proof of consultation upon return to work as a law-enforcement officer or upon termination of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State

1289 Police for entry into the Virginia Criminal Information Network. However, if such officer retires on
1290 disability because of the service-related injury, and would be eligible under clause (i) for written proof
1291 of consultation to carry a concealed handgun, he may retain the previously issued written proof of
1292 consultation.

1293 2. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement
1294 agency, commission, or board mentioned in subdivision 1 who has resigned in good standing from such
1295 law-enforcement agency, commission, or board to accept a position covered by a retirement system that
1296 is authorized under Title 51.1, provided such person carries with him written proof of consultation with
1297 and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement
1298 officer of the agency from which he resigned or, in the case of special agents, issued by the State
1299 Corporation Commission or the Virginia Alcoholic Beverage Control Authority. A copy of the proof of
1300 consultation and favorable review shall be forwarded by the chief, Commission, or Board to the
1301 Department of State Police for entry into the Virginia Criminal Information Network. The chief
1302 law-enforcement officer shall not without cause withhold such written proof if the law-enforcement
1303 officer otherwise meets the requirements of this section.

1304 3. Any State Police officer who is a member of the organized reserve forces of any of the Armed
1305 Services of the United States or National Guard, while such officer is called to active military duty,
1306 provided such officer carries with him written proof of consultation with and favorable review of the
1307 need to carry a concealed handgun issued by the Superintendent of State Police. The proof of
1308 consultation and favorable review shall be valid as long as the officer is on active military duty and
1309 shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of
1310 consultation and favorable review shall be entered into the Virginia Criminal Information Network. The
1311 Superintendent of State Police shall not without cause withhold such written proof if the officer is in
1312 good standing and is qualified to carry a weapon while on active law-enforcement duty.

1313 4. Any retired or resigned attorney for the Commonwealth or assistant attorney for the
1314 Commonwealth who (i) was not terminated for cause and served at least 10 years prior to his retirement
1315 or resignation; (ii) during the most recent 12-month period, has met, at his own expense, the standards
1316 for qualification in firearms training for active law-enforcement officers in the Commonwealth; (iii)
1317 carries with him written proof of consultation with and favorable review of the need to carry a
1318 concealed handgun issued by the attorney for the Commonwealth from whose office he retired or
1319 resigned; and (iv) meets the requirements of a "qualified retired law enforcement officer" pursuant to the
1320 federal Law Enforcement Officers Safety Act of 2004 (18 U.S.C. § 926C). A copy of the proof of
1321 consultation and favorable review shall be forwarded by the attorney for the Commonwealth to the
1322 Department of State Police for entry into the Virginia Criminal Information Network.

1323 B. For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a
1324 retired or resigned law-enforcement officer, including a retired or resigned attorney for the
1325 Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and
1326 review pursuant to this section shall have the opportunity to annually participate, at the retired or
1327 resigned law-enforcement officer's expense, in the same training and testing to carry firearms as is
1328 required of active law-enforcement officers in the Commonwealth. If such retired or resigned
1329 law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer
1330 shall issue the retired or resigned officer certification, valid one year from the date of issuance,
1331 indicating that the retired or resigned officer has met the standards of the agency to carry a firearm.

1332 C. A retired or resigned law-enforcement officer, including a retired or resigned attorney for the
1333 Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and
1334 review pursuant to this section may annually participate and meet the training and qualification standards
1335 to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired
1336 or resigned law-enforcement officer meets the training and qualification standards, the chief
1337 law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the
1338 date of issuance, indicating that the retired or resigned officer has met the standards of the
1339 Commonwealth to carry a firearm. A copy of the certification indicating that the retired or resigned
1340 officer has met the standards of the Commonwealth to carry a firearm shall be forwarded by the chief,
1341 Commission, Board, or attorney for the Commonwealth to the Department of State Police for entry into
1342 the Virginia Criminal Information Network.

1343 D. For all purposes, including for the purpose of applying the reciprocity provisions of
1344 § 18.2-308.014, any person granted the privilege to carry a concealed handgun pursuant to this section,
1345 while carrying the proof of consultation and favorable review required, shall be deemed to have been
1346 issued a concealed handgun permit.

1347 **§ 18.2-325. Definitions.**

1348 1. "Illegal gambling" means the making, placing, or receipt of any bet or wager in the
1349 Commonwealth of money or other consideration or thing of value, made in exchange for a chance to
1350 win a prize, stake, or other consideration or thing of value, dependent upon the result of any game,

contest, or any other event the outcome of which is uncertain or a matter of chance, whether such game, contest, or event occurs or is to occur inside or outside the limits of the Commonwealth.

For the purposes of this subdivision and notwithstanding any provision in this section to the contrary, the making, placing, or receipt of any bet or wager of money or other consideration or thing of value shall include the purchase of a product, Internet access, or other thing made in exchange for a chance to win a prize, stake, or other consideration or thing of value by means of the operation of a gambling device as described in subdivision 3 b, regardless of whether the chance to win such prize, stake, or other consideration or thing of value may be offered in the absence of a purchase.

"Illegal gambling" also means the playing or offering for play of any skill game.

"Illegal gambling" does not include the playing or offering for play of any electronic gaming device authorized pursuant to the provisions of Article 3 (§ 58.1-4048 et seq.) of Chapter 40 of Title 58.1.

2. "Interstate gambling" means the conduct of an enterprise for profit which engages in the purchase or sale within the Commonwealth of any interest in a lottery of another state or country whether or not such interest is an actual lottery ticket, receipt, contingent promise to pay, order to purchase, or other record of such interest.

3. "Gambling device" includes:

a. Any device, machine, paraphernalia, equipment, or other thing, including books, records and other papers, which are actually used in an illegal gambling operation or activity;

b. Any machine, apparatus, implement, instrument, contrivance, board or other thing, or electronic or video versions thereof, including but not limited to those dependent upon the insertion of a coin or other object for their operation, which operates, either completely automatically or with the aid of some physical act by the player or operator, in such a manner that, depending upon elements of chance, it may eject something of value or determine the prize or other thing of value to which the player is entitled; provided, however, that the return to the user of nothing more than additional chances or the right to use such machine is not deemed something of value within the meaning of this subsection; and provided further, that machines that only sell, or entitle the user to, items of merchandise of equivalent value that may differ from each other in composition, size, shape or color, shall not be deemed gambling devices within the meaning of this subsection; and

c. Skill games.

"Gambling device" does not include an electronic gaming device authorized pursuant to the provisions of Article 3 (§ 58.1-4048 et seq.) of Chapter 40 of Title 58.1.

Such devices are no less gambling devices if they indicate beforehand the definite result of one or more operations but not all the operations. Nor are they any less a gambling device because, apart from their use or adaptability as such, they may also sell or deliver something of value on a basis other than chance.

4. "Operator" includes any person, firm or association of persons, who conducts, finances, manages, supervises, directs or owns all or part of an illegal gambling enterprise, activity or operation.

5. "Skill" means the knowledge, dexterity, or any other ability or expertise of a natural person.

6. "Skill game" means an electronic, computerized, or mechanical contrivance, terminal, machine, or other device that requires the insertion of a coin, currency, ticket, token, or similar object to operate, activate, or play a game, the outcome of which is determined by any element of skill of the player and that may deliver or entitle the person playing or operating the device to receive cash; cash equivalents, gift cards, vouchers, billets, tickets, tokens, or electronic credits to be exchanged for cash; merchandise; or anything of value whether the payoff is made automatically from the device or manually.

§ 18.2-334.3. Exemptions to article; state lottery; sports betting; electronic gaming.

Nothing in this article shall apply to:

1. Any lottery conducted by the Commonwealth of Virginia pursuant to Article 1 (§ 58.1-4000 et seq.) of Chapter 40 of Title 58.1; or

2. Any sports betting or related activity that is lawful under Article 2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1; or

3. *The play of any electronic gaming devices or related activity that is lawful under Article 3 (§ 58.1-4048 et seq.) of Chapter 40 of Title 58.1.*

§ 18.2-340.22. Only raffles, bingo, network bingo, instant bingo games, and Texas Hold'em poker tournaments permitted; prizes not gaming contracts.

A. This article permits qualified organizations to conduct raffles, bingo, network bingo, instant bingo games, and Texas Hold'em poker tournaments. All games not explicitly authorized by this article or Board regulations adopted in accordance with § 18.2-340.18 are prohibited. Nothing herein shall be construed to authorize the Board to approve the conduct of any other form of poker in the Commonwealth.

B. The award of any prize money for any charitable game shall not be deemed to be part of any gaming contract within the purview of § 11-14.

C. Nothing in this article shall prohibit an organization from using the Virginia Lottery's Lottery and Gaming Department's Pick-3 number or any number or other designation selected by the Virginia Lottery and Gaming Department in connection with any lottery, as the basis for determining the winner of a raffle.

§ 19.2-389. (Effective January 1, 2021 and until July 1, 2021) Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved by family day systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery and Gaming Department for the conduct of investigations as set forth in the Virginia Lottery and Gaming Law (§ 58.1-4000 et seq.), *electronic gaming devices as set forth in Article 3 (§ 58.1-4048 et seq.) of Chapter 40 of Title 58.1*, and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1;

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal

history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment

and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Social Services and directors of local departments of social services for the purpose of screening individuals seeking to enter into a contract with the Department of Social Services or a local department of social services for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2; and

46. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

§ 19.2-389. (Effective July 1, 2021) Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of

America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery and Gaming Department for the conduct of investigations as set forth in the Virginia Lottery and Gaming Law (§ 58.1-4000 et seq.), *electronic gaming devices as set forth in Article 3 (§ 58.1-4048 et seq.) of Chapter 40 of Title 58.1*, and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1;

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to

1781 §§ 37.2-506 and 37.2-607;

1782 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
1783 determining an individual's fitness for employment, approval as a sponsored residential service provider,
1784 or permission to enter into a shared living arrangement with a person receiving medical assistance
1785 services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

1786 28. The Commissioner of Social Services for the purpose of locating persons who owe child support
1787 or who are alleged in a pending paternity proceeding to be a putative father, provided that only the
1788 name, address, demographics and social security number of the data subject shall be released;

1789 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
1790 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
1791 purpose of determining if any applicant who accepts employment in any direct care position or requests
1792 approval as a sponsored residential service provider or permission to enter into a shared living
1793 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted
1794 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with
1795 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and
1796 37.2-607;

1797 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
1798 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
1799 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

1800 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates
1801 for the purpose of determining if any person being considered for election to any judgeship has been
1802 convicted of a crime;

1803 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
1804 determining an individual's fitness for employment in positions designated as sensitive under Department
1805 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

1806 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
1807 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
1808 Violent Predators Act (§ 37.2-900 et seq.);

1809 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
1810 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
1811 companies, for the conduct of investigations of applications for employment or for access to facilities,
1812 by contractors, leased laborers, and other visitors;

1813 35. Any employer of individuals whose employment requires that they enter the homes of others, for
1814 the purpose of screening individuals who apply for, are offered, or have accepted such employment;

1815 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
1816 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
1817 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
1818 subject to the restriction that the data shall not be further disseminated by the agency to any party other
1819 than a federal or state authority or court as may be required to comply with an express requirement of
1820 law for such further dissemination, subject to limitations set out in subsection G;

1821 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
1822 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
1823 or have accepted a position related to the provision of transportation services to enrollees in the
1824 Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other
1825 program administered by the Department of Medical Assistance Services;

1826 38. The State Corporation Commission for the purpose of investigating individuals who are current
1827 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
1828 Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of
1829 Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in
1830 part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19,
1831 or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such
1832 information to the applicant or its designee;

1833 39. The Department of Professional and Occupational Regulation for the purpose of investigating
1834 individuals for initial licensure pursuant to § 54.1-2106.1;

1835 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
1836 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
1837 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
1838 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

1839 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

1840 42. The State Treasurer for the purpose of determining whether a person receiving compensation for
1841 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

1842 43. The Department of Education or its agents or designees for the purpose of screening individuals

seeking to enter into a contract with the Department of Education or its agents or designees for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

46. Administrators and board presidents of and applicants for licensure or registration as a child day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; and

47. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record

information pursuant to the rules of court for obtaining discovery or for review by the court.

§ 37.2-314.2. Problem Gambling Treatment and Support Fund.

A. As used in this section:

"Compulsive gambling" means persistent and recurrent problem gambling behavior leading to clinically significant impairment or distress, as indicated by an individual exhibiting four or more of the criteria as defined by the Diagnostic Statistical Manual of Mental Disorders in a 12-month period and where the behavior is not better explained by a manic episode.

"Problem gambling" means a gambling behavior that causes disruptions in any major area of life, including the psychological, social, or vocational areas of life, but does not fulfill the criteria for diagnosis as a gambling disorder.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Problem Gambling Treatment and Support Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All revenue accruing to the Fund pursuant to subsection A of § 58.1-4038, *all moneys required to be deposited into the Fund pursuant to subsection A of § 58.1-4067*, and moneys required to be deposited into the Fund pursuant to Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of (i) providing counseling and other support services for compulsive and problem gamblers, (ii) developing and implementing compulsive and problem gambling treatment and prevention programs, and (iii) providing grants to support organizations that provide assistance to compulsive and problem gamblers. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

§ 58.1-3. Secrecy of information; penalties.

A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged pursuant to this section or § 58.1-512 or 58.1-2712.2, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. This prohibition shall apply to any reports, returns, financial documents or other information filed with the Attorney General pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2. Any person violating the provisions of this section is guilty of a Class 1 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;
2. Acts performed or words spoken, published, or shared with another agency or subdivision of the Commonwealth in the line of duty under state law;
3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;
4. The sales price, date of construction, physical dimensions or characteristics of real property, or any information required for building permits;
5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent or by the commissioner of accounts making a settlement of accounts filed in such estate;
6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when requested by the General Assembly or any duly constituted committee of the General Assembly;
7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the Attorney General to a tobacco products manufacturer who is required to establish a qualified escrow fund pursuant to § 3.2-4201 and are limited to the brand families of that manufacturer as listed in the Tobacco Directory established pursuant to § 3.2-4206 and are limited to the current or previous two calendar years or in any year in which the Attorney General receives Stamping Agent information that potentially alters the required escrow deposit of the manufacturer. The information shall only be provided in the following manner: the manufacturer may make a written request, on a quarterly or yearly basis or when the manufacturer is notified by the Attorney General of a potential change in the amount of a required escrow deposit, to the Attorney General for a list of the Stamping Agents who reported stamping or selling its products and the amount reported. The Attorney General shall provide the list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of the

reports the Stamping Agents filed with the Attorney General, it must first request them from the Stamping Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not receive the reports pursuant to subsection C of § 3.2-4209, the manufacturer may make a written request to the Attorney General, including a copy of the prior written request to the Stamping Agent and any response received, for copies of any reports not received. The Attorney General shall provide copies of the reports within 45 days of receipt of the request.

B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. Notwithstanding any other provision of this section or other law, the Department, upon request by the General Assembly or any duly constituted committee of the General Assembly, shall disclose the total aggregate amount of an income tax deduction or credit taken by all taxpayers, regardless of (i) how few taxpayers took the deduction or credit or (ii) any other circumstances. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from local tax returns and other information pertaining to the income, sales and property of any person, firm or corporation licensed to do business in that locality.

2. This section shall not prohibit the Department from disclosing whether a person, firm, or corporation is registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or whether a certificate of registration number relating to such tax is valid. Additionally, notwithstanding any other provision of law, the Department is hereby authorized to make available the names and certificate of registration numbers of dealers who are currently registered for retail sales and use tax.

3. This section shall not prohibit the Department from disclosing information to nongovernmental entities with which the Department has entered into a contract to provide services that assist it in the administration of refund processing or other services related to its administration of taxes.

4. This section shall not prohibit the Department from disclosing information to taxpayers regarding whether the taxpayer's employer or another person or entity required to withhold on behalf of such taxpayer submitted withholding records to the Department for a specific taxable year as required pursuant to subdivision C 1 of § 58.1-478.

5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town from disclosing information to nongovernmental entities with which the locality has entered into a contract to provide services that assist it in the administration of refund processing or other non-audit services related to its administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town shall not disclose information to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that such entity agrees to abide by such obligations.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director of finance, or other similar collector of county, city, or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon entering into a written agreement, the amount of income, filing status, number and type of dependents, whether a federal earned income tax credit as authorized in § 32 of the Internal Revenue Code and an income tax credit for low-income taxpayers as authorized in § 58.1-339.8 have been claimed, and Forms W-2 and 1099 to facilitate the administration of public assistance or social services benefits as defined in § 63.2-100 or child support services pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or as may be necessary to facilitate the administration of outreach and enrollment related to the federal earned income tax credit authorized in § 32 of the Internal Revenue Code and the income tax credit for low-income taxpayers authorized in § 58.1-339.8; (iii) provide to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those persons identified by the designated guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties, and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission,

2027 after entering into a written agreement, such tax information as may be necessary to facilitate the
2028 collection of unemployment taxes and overpaid benefits; (vi) provide to the Virginia Alcoholic Beverage
2029 Control Authority, upon entering into a written agreement, such tax information as may be necessary to
2030 facilitate the collection of state and local taxes and the administration of the alcoholic beverage control
2031 laws; (vii) provide to the Director of the Virginia Lottery *and Gaming Department* such tax information
2032 as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to
2033 the Department of the Treasury for its confidential use such tax information as may be necessary to
2034 facilitate the location of owners and holders of unclaimed property, as defined in § 55.1-2500; (ix)
2035 provide to the State Corporation Commission, upon entering into a written agreement, such tax
2036 information as may be necessary to facilitate the collection of taxes and fees administered by the
2037 Commission; (x) provide to the Executive Director of the Potomac and Rappahannock Transportation
2038 Commission for his confidential use such tax information as may be necessary to facilitate the collection
2039 of the motor vehicle fuel sales tax; (xi) provide to the Commissioner of the Department of Agriculture
2040 and Consumer Services such tax information as may be necessary to identify those applicants for
2041 registration as a supplier of charitable gaming supplies who have not filed required returns or who owe
2042 delinquent taxes; (xii) provide to the Department of Housing and Community Development for its
2043 confidential use such tax information as may be necessary to facilitate the administration of the
2044 remaining effective provisions of the Enterprise Zone Act (§ 59.1-270 et seq.), and the Enterprise Zone
2045 Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and address information to private
2046 collectors entering into a written agreement with the Tax Commissioner, for their confidential use when
2047 acting on behalf of the Commonwealth or any of its political subdivisions; however, the Tax
2048 Commissioner is not authorized to provide such information to a private collector who has used or
2049 disseminated in an unauthorized or prohibited manner any such information previously provided to such
2050 collector; (xiv) provide current name and address information as to the identity of the wholesale or retail
2051 dealer that affixed a tax stamp to a package of cigarettes to any person who manufactures or sells at
2052 retail or wholesale cigarettes and who may bring an action for injunction or other equitable relief for
2053 violation of Chapter 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes Act; (xv) provide to
2054 the Commissioner of Labor and Industry, upon entering into a written agreement, such tax information
2055 as may be necessary to facilitate the collection of unpaid wages under § 40.1-29; (xvi) provide to the
2056 Director of the Department of Human Resource Management, upon entering into a written agreement,
2057 such tax information as may be necessary to identify persons receiving workers' compensation indemnity
2058 benefits who have failed to report earnings as required by § 65.2-712; (xvii) provide to any
2059 commissioner of the revenue, director of finance, or any other officer of any county, city, or town
2060 performing any or all of the duties of a commissioner of the revenue and to any dealer registered for
2061 the collection of the Communications Sales and Use Tax, a list of the names, business addresses, and dates
2062 of registration of all dealers registered for such tax; (xviii) provide to the Executive Director of the
2063 Northern Virginia Transportation Commission for his confidential use such tax information as may be
2064 necessary to facilitate the collection of the motor vehicle fuel sales tax; (xix) provide to the
2065 Commissioner of Agriculture and Consumer Services the name and address of the taxpayer businesses
2066 licensed by the Commonwealth that identify themselves as subject to regulation by the Board of
2067 Agriculture and Consumer Services pursuant to § 3.2-5130; (xx) provide to the developer or the
2068 economic development authority of a tourism project authorized by § 58.1-3851.1, upon entering into a
2069 written agreement, tax information facilitating the repayment of gap financing; (xxi) provide to the
2070 Virginia Retirement System and the Department of Human Resource Management, after entering into a
2071 written agreement, such tax information as may be necessary to facilitate the enforcement of subdivision
2072 C 4 of § 9.1-401; (xxii) provide to the Department of Medical Assistance Services, upon entering into a
2073 written agreement, the name, address, social security number, number and type of personal exemptions,
2074 tax-filing status, and adjusted gross income of an individual, or spouse in the case of a married taxpayer
2075 filing jointly, who has voluntarily consented to such disclosure for purposes of identifying persons who
2076 would like to newly enroll in medical assistance; and (xxiii) provide to the Commissioner of the
2077 Department of Motor Vehicles information sufficient to verify that an applicant for a driver privilege
2078 card or permit under § 46.2-328.3 reported income and deductions from Virginia sources, as defined in
2079 § 58.1-302, or was claimed as a dependent, on an individual income tax return filed with the
2080 Commonwealth within the preceding 12 months. The Tax Commissioner is further authorized to enter
2081 into written agreements with duly constituted tax officials of other states and of the United States for the
2082 inspection of tax returns, the making of audits, and the exchange of information relating to any tax
2083 administered by the Department of Taxation. Any person to whom tax information is divulged pursuant
2084 to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a
2085 tax official.

2086 D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the
2087 commissioner of revenue or other assessing official is authorized to (i) provide, upon written request
2088 stating the reason for such request, the chief executive officer of any county or city with information

furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the local sales and use tax revenues payable to the county or city; (ii) provide to the Department of Professional and Occupational Regulation for its confidential use the name, address, and amount of gross receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a profession or occupation administered by the Department of Professional and Occupational Regulation, only after the Department of Professional and Occupational Regulation exhausts all other means of obtaining such information; and (iii) provide to any representative of a condominium unit owners' association, property owners' association or real estate cooperative association, or to the owner of property governed by any such association, the names and addresses of parties having a security interest in real property governed by any such association; however, such information shall be released only upon written request stating the reason for such request, which reason shall be limited to proposing or opposing changes to the governing documents of the association, and any information received by any person under this subsection shall be used only for the reason stated in the written request. The treasurer or other local assessing official may require any person requesting information pursuant to clause (iii) of this subsection to pay the reasonable cost of providing such information. Any person to whom tax information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

Notwithstanding the provisions of subsection A or B or any other provisions of this title, the treasurer or other collector of taxes for a county, city or town is authorized to provide information relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course of performing his duties to the commissioner of the revenue or other assessing official for such jurisdiction for use by such commissioner or other official in performing assessments.

This section shall not be construed to prohibit a local tax official from imprinting or displaying on a motor vehicle local license decal the year, make, and model and any other legal identification information about the particular motor vehicle for which that local license decal is assigned.

E. Notwithstanding any other provisions of law, state agencies and any other administrative or regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon written request, the name, address, and social security number of a taxpayer, necessary for the performance of the Commissioner's official duties regarding the administration and enforcement of laws within the jurisdiction of the Department of Taxation. The receipt of information by the Tax Commissioner or his agent which may be deemed taxpayer information shall not relieve the Commissioner of the obligations under this section.

F. Additionally, it is unlawful for any person to disseminate, publish, or cause to be published any confidential tax document ~~which~~ that he knows or has reason to know is a confidential tax document. A confidential tax document is any correspondence, document, or tax return that is prohibited from being divulged by subsection A, B, C, or D and includes any document containing information on the transactions, property, income, or business of any person, firm, or corporation that is required to be filed with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

§ 58.1-302. Definitions.

For the purpose of this chapter and unless otherwise required by the context:

"Affiliated" means two or more corporations subject to Virginia income taxes whose relationship to each other is such that (i) one corporation owns at least 80 percent of the voting stock of the other or others or (ii) at least 80 percent of the voting stock of two or more corporations is owned by the same interests.

"Compensation" means wages, salaries, commissions and any other form of remuneration paid or accrued to employees for personal services.

"Corporation" includes associations, joint stock companies and insurance companies.

"Domicile" means the permanent place of residence of a taxpayer and the place to which he intends to return even though he may actually reside elsewhere. In determining domicile, consideration may be given to the applicant's expressed intent, conduct, and all attendant circumstances including, but not limited to, financial independence, business pursuits, employment, income sources, residence for federal income tax purposes, marital status, residence of parents, spouse and children, if any, leasehold, sites of personal and real property owned by the applicant, motor vehicle and other personal property registration, residence for purposes of voting as proven by registration to vote, if any, and such other factors as may reasonably be deemed necessary to determine the person's domicile.

"Foreign source income" means:

1. Interest, other than interest derived from sources within the United States;
2. Dividends, other than dividends derived from sources within the United States;

2150 3. Rents, royalties, license, and technical fees from property located or services performed without
2151 the United States or from any interest in such property, including rents, royalties, or fees for the use of
2152 or the privilege of using without the United States any patents, copyrights, secret processes and
2153 formulas, good will, trademarks, trade brands, franchises, and other like properties;

2154 4. Gains, profits, or other income from the sale of intangible or real property located without the
2155 United States; and

2156 5. The amount of an individual's share of net income attributable to a foreign source qualified
2157 business unit of an electing small business corporation (S corporation). For purposes of this subsection,
2158 qualified business unit shall be defined by § 989 of the Internal Revenue Code, and the source of such
2159 income shall be determined in accordance with §§ 861, 862 and 987 of the Internal Revenue Code.

2160 In determining the source of "foreign source income," the provisions of §§ 861, 862, and 863 of the
2161 Internal Revenue Code shall be applied except as specifically provided in subsection 5 above.

2162 "Income and deductions from Virginia sources" includes:

2163 1. Items of income, gain, loss and deduction attributable to:

2164 a. The ownership of any interest in real or tangible personal property in Virginia;

2165 b. A business, trade, profession or occupation carried on in Virginia; or

2166 c. Prizes paid by the Virginia Lottery and Gaming Department, and gambling winnings from wagers
2167 placed or paid at a location in Virginia.

2168 2. Income from intangible personal property, including annuities, dividends, interest, royalties and
2169 gains from the disposition of intangible personal property to the extent that such income is from
2170 property employed by the taxpayer in a business, trade, profession, or occupation carried on in Virginia.

2171 "Income tax return preparer" means any person who prepares for compensation, or who employs one
2172 or more persons to prepare for compensation, any return of tax imposed by this chapter or any claim for
2173 refund of tax. For purposes of the preceding sentence, the preparation for compensation of any portion
2174 of a return or claim for refund shall be treated as if it were the preparation of the return or claim for
2175 refund. A person shall not be an "income tax return preparer" merely because the person:

2176 1. Furnishes typing, reproducing, or other mechanical assistance;

2177 2. Prepares a return or claim for refund of the employer (or of an officer or employee of the
2178 employer) by whom he is regularly and continuously employed;

2179 3. Prepares as a fiduciary a return or claim for refund for any person; or

2180 4. Prepares an application for correction of an erroneous assessment or a protective claim for refund
2181 for a taxpayer in response to any assessment pursuant to § 58.1-1812 issued to the taxpayer or in
2182 response to any waiver pursuant to § 58.1-101 or 58.1-220 after the commencement of an audit of the
2183 taxpayer or another taxpayer if a determination in such audit of such other taxpayer directly or indirectly
2184 affects the tax liability of such taxpayer.

2185 "Individual" means all natural persons whether married or unmarried and fiduciaries acting for
2186 natural persons, but not fiduciaries acting for trusts or estates.

2187 "Intangible expenses and costs" means:

2188 1. Expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or
2189 indirect acquisition, use, maintenance or management, ownership, sale, exchange, lease, transfer, or any
2190 other disposition of intangible property to the extent such amounts are allowed as deductions or costs in
2191 determining taxable income;

2192 2. Losses related to or incurred in connection directly or indirectly with factoring transactions or
2193 discounting transactions;

2194 3. Royalty, patent, technical and copyright fees;

2195 4. Licensing fees; and

2196 5. Other similar expenses and costs.

2197 "Intangible property" means patents, patent applications, trade names, trademarks, service marks,
2198 copyrights and similar types of intangible assets.

2199 "Interest expenses and costs" means amounts directly or indirectly allowed as deductions under § 163
2200 of the Internal Revenue Code for purposes of determining taxable income under the Internal Revenue
2201 Code to the extent such expenses and costs are directly or indirectly for, related to, or in connection
2202 with the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, lease,
2203 transfer, or disposition of intangible property.

2204 "Nonresident estate or trust" means an estate or trust which is not a resident estate or trust.

2205 "Related entity" means:

2206 1. A stockholder who is an individual, or a member of the stockholder's family enumerated in § 318
2207 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own,
2208 directly, indirectly, beneficially or constructively, in the aggregate, at least 50 percent of the value of the
2209 taxpayer's outstanding stock;

2210 2. A stockholder, or a stockholder's partnership, limited liability company, estate, trust or corporation,
2211 if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts and

corporations own directly, indirectly, beneficially or constructively, in the aggregate, at least 50 percent of the value of the taxpayer's outstanding stock; or

3. A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of § 318 of the Internal Revenue Code, if the taxpayer owns, directly, indirectly, beneficially or constructively, at least 50 percent of the value of the corporation's outstanding stock. The attribution rules of § 318 of the Internal Revenue Code shall apply for purposes of determining whether the ownership requirements of this subdivision have been met.

"Related member" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is a related entity, a component member as defined in § 1563(b) of the Internal Revenue Code, or is a person to or from whom there is attribution of stock ownership in accordance with § 1563(e) of the Internal Revenue Code.

"Resident" applies only to natural persons and includes, for the purpose of determining liability for the taxes imposed by this chapter upon the income of any taxable year every person domiciled in Virginia at any time during the taxable year and every other person who, for an aggregate of more than 183 days of the taxable year, maintained his place of abode within Virginia, whether domiciled in Virginia or not. The word "resident" shall not include any member of the United States Congress who is domiciled in another state.

"Resident estate or trust" means:

1. The estate of a decedent who at his death was domiciled in the Commonwealth;
2. A trust created by will of a decedent who at his death was domiciled in the Commonwealth; or
3. A trust created by or consisting of property of a person domiciled in the Commonwealth

"Sales" means all gross receipts of the corporation not allocated under § 58.1-407, except the sale or other disposition of intangible property shall include only the net gain realized from the transaction.

"State," for purposes of Article 10 (§ 58.1-400 et seq.), means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country.

"Trust" or "estate" means a trust or estate, or a fiduciary thereof, which is required to file a fiduciary income tax return under the laws of the United States.

"Virginia fiduciary adjustment" means the net amount of the applicable modifications described in §§ 58.1-322.01, 58.1-322.02, and 58.1-322.04 (including subdivision 1 of § 58.1-322.04 if the estate or trust is a beneficiary of another estate or trust) which relate to items of income, gain, loss or deduction of an estate or trust. The fiduciary adjustment shall not include the modification in § 58.1-322.03, except that the amount of state income taxes excluded from federal taxable income shall be included. The fiduciary adjustment shall also include the modification in subdivision 7 of § 58.1-322.03 regarding the deduction for the purchase of a prepaid tuition contract or contribution to a savings trust account.

§ 58.1-322.02. Virginia taxable income; subtractions.

In computing Virginia taxable income pursuant to § 58.1-322, to the extent included in federal adjusted gross income, there shall be subtracted:

1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission, or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States, including, but not limited to, stocks, bonds, treasury bills, and treasury notes but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

2. Income derived from obligations, or on the sale or exchange of obligations, of the Commonwealth or of any political subdivision or instrumentality of the Commonwealth.

3. Benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code.

4. Up to \$20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code; however, any person who claims a deduction under subdivision 5 of § 58.1-322.03 may not also claim a subtraction under this subdivision.

5. The amount of any refund or credit for overpayment of income taxes imposed by the Commonwealth or any other taxing jurisdiction.

6. The amount of wages or salaries eligible for the federal Work Opportunity Credit which was not deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

7. Any amount included therein less than \$600 from a prize awarded by the Virginia Lottery and Gaming Department.

8. The wages or salaries received by any person for active and inactive service in the National Guard of the Commonwealth of Virginia, not to exceed the amount of income derived from 39 calendar days of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of O3 and below shall be entitled to the deductions specified in this subdivision.

2273 9. Amounts received by an individual, not to exceed \$1,000 for taxable years beginning on or before
2274 December 31, 2019, and \$5,000 for taxable years beginning on or after January 1, 2020, as a reward for
2275 information provided to a law-enforcement official or agency, or to a nonprofit corporation created
2276 exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of
2277 perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an
2278 employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime
2279 for which the reward was paid, or any person who is compensated for the investigation of crimes or
2280 accidents.

2281 10. The amount of "qualified research expenses" or "basic research expenses" eligible for deduction
2282 for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the
2283 Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and
2284 members of limited liability companies to the extent and in the same manner as other deductions may
2285 pass through to such partners, shareholders, and members.

2286 11. Any income received during the taxable year derived from a qualified pension, profit-sharing, or
2287 stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account
2288 or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as
2289 defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the
2290 contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the
2291 extent the contributions to such plan or program were subject to taxation under the income tax in
2292 another state.

2293 12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract
2294 or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7
2295 (§ 23.1-700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be
2296 limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a
2297 scholarship.

2298 13. All military pay and allowances, to the extent included in federal adjusted gross income and not
2299 otherwise subtracted, deducted, or exempted under this section, earned by military personnel while
2300 serving by order of the President of the United States with the consent of Congress in a combat zone or
2301 qualified hazardous duty area that is treated as a combat zone for federal tax purposes pursuant to § 112
2302 of the Internal Revenue Code.

2303 14. For taxable years beginning before January 1, 2015, the gain derived from the sale or exchange
2304 of real property or the sale or exchange of an easement to real property which results in the real
2305 property or the easement thereto being devoted to open-space use, as that term is defined in §
2306 58.1-3230, for a period of time not less than 30 years. To the extent that a subtraction is taken in
2307 accordance with this subdivision, no tax credit under this chapter for donating land for its preservation
2308 shall be allowed for three years following the year in which the subtraction is taken.

2309 15. Fifteen thousand dollars of military basic pay for military service personnel on extended active
2310 duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar
2311 by the amount by which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero
2312 if such military basic pay amount is equal to or exceeds \$30,000.

2313 16. The first \$15,000 of salary for each federal and state employee whose total annual salary from all
2314 employment for the taxable year is \$15,000 or less.

2315 17. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

2316 18. Any amount received as military retirement income by an individual awarded the Congressional
2317 Medal of Honor.

2318 19. Items of income attributable to, derived from, or in any way related to (i) assets stolen from,
2319 hidden from, or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii)
2320 damages, reparations, or other consideration received by a victim or target of Nazi persecution to
2321 compensate such individual for performing labor against his will under the threat of death, during World
2322 War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such
2323 items of income or with the proceeds from the sale of assets stolen from, hidden from, or otherwise lost
2324 to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The
2325 provisions of this subdivision shall only apply to an individual who was the first recipient of such items
2326 of income and who was a victim or target of Nazi persecution, or a spouse, surviving spouse, or child
2327 or stepchild of such victim.

2328 As used in this subdivision:

2329 "Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those
2330 European countries allied with Nazi Germany, or any other neutral European country or area in Europe
2331 under the influence or threat of Nazi invasion.

2332 "Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by
2333 the Nazi regime who had assets stolen from, hidden from, or otherwise lost as a result of any act or
2334 omission in any way relating to (i) the Holocaust, (ii) World War II and its prelude and direct aftermath,

(iii) transactions with or actions of the Nazi regime, (iv) treatment of refugees fleeing Nazi persecution, or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II and its prelude and aftermath. A "victim or target of Nazi persecution" also includes any individual forced into labor against his will, under the threat of death, during World War II and its prelude and direct aftermath.

20. The military death gratuity payment made after September 11, 2001, to the survivor of deceased military personnel killed in the line of duty, pursuant to 10 U.S.C. Chapter 75; however, the subtraction amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal gross income in accordance with § 134 of the Internal Revenue Code.

21. The death benefit payments from an annuity contract that are received by a beneficiary of such contract, provided that (i) the death benefit payment is made pursuant to an annuity contract with an insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under this subdivision shall be allowed only for that portion of the death benefit payment that is included in federal adjusted gross income.

22. Any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.

23. Any gain recognized as a result of resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.

24. Any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income shall be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the Secretary of Administration, provided that the business has its principal office or facility in the Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business.

25. For taxable years beginning on and after January 1, 2014, any income of an account holder for the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's first-time home buyer savings account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36 and (ii) interest income or other income for federal income tax purposes attributable to such person's first-time home buyer savings account.

Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys or funds withdrawn from the first-time home buyer savings account were used for any purpose other than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under § 36-174. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable year that was used for other than the payment of eligible costs, computed by multiplying the amount withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in the account at the time of the withdrawal to the total balance in the account at such time.

However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i) withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101 through 1330; or (iii) transferred from an account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36 into another account established pursuant to such chapter for the benefit of another qualified beneficiary.

For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings account," and "qualified beneficiary" mean the same as those terms are defined in § 36-171.

26. For taxable years beginning on and after January 1, 2015, any income for the taxable year attributable to the discharge of a student loan solely by reason of the student's death. For purposes of this subdivision, "student loan" means the same as that term is defined under § 108(f) of the Internal Revenue Code.

27. a. Income, including investment services partnership interest income (otherwise known as investment partnership carried interest income), attributable to an investment in a Virginia venture capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this

subdivision for an investment in a company that is owned or operated by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 27:

"Qualified portfolio company" means a company that (i) has its principal place of business in the Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or service other than the management or investment of capital; and (iii) provides equity in the company to the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company" does not include a company that is an individual or sole proprietorship.

"Virginia venture capital account" means an investment fund that has been certified by the Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital account, the operator of the investment fund shall register the investment fund with the Department prior to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one investor who has at least four years of professional experience in venture capital investment or substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to, an undergraduate degree from an accredited college or university in economics, finance, or a similar field of study. The Department may require an investment fund to provide documentation of the investor's training, education, or experience as deemed necessary by the Department to determine substantial equivalency. If the Department determines that the investment fund employs at least one investor with the experience set forth herein, the Department shall certify the investment fund as a Virginia venture capital account at such time as the investment fund actually invests at least 50 percent of the capital committed to its fund in qualified portfolio companies.

28. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or 27 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 28:

"Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of § 2.2-115.

"Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3 of § 2.2-115.

"Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C. § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If the Department determines that the trust satisfies the preceding criteria, the Department shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed.

29. For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of real property by condemnation proceedings.

§ 58.1-460. Definitions.

For the purposes of this article:

"Employee" includes an individual, whether a resident or a nonresident of the Commonwealth, who performs or performed any service in the Commonwealth for wages, or a resident of the Commonwealth who performs or performed any service in the service outside the Commonwealth for wages. The word "employee" also includes an officer, employee, or elected official of the United States, the Commonwealth, or any other state or any territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing or an officer of a corporation. The term shall not include the beneficial owner of an individual retirement account (IRA) or simplified employee pension plan (SEPP).

"Employer" means the Commonwealth, or any political subdivision thereof, the United States, or any agency or instrumentality of any one or more of the foregoing, or the person, whether a resident or a nonresident of the Commonwealth, for whom an individual performs or performed any service as an employee or from whom a person receives a prize in excess of \$5,001 pursuant to the Virginia Lottery and Gaming Law (§ 58.1-4000 et seq.), except that:

1. If the person, governmental unit, or agency thereof, for whom the individual performs or performed the service does not have control of the payment of the wages for such services, the term

"employer" (except as used in the definition of "wages" herein) means the person having control of the payment of such wages, and

2. In the case of a person paying wages on behalf of a nonresident person not engaged in trade or business within the Commonwealth or on behalf of any governmental unit or agency thereof not located within the Commonwealth, the term, "employer" (except as used in the definition of "wages" herein) means such person. The term shall not include a financial institution, corporation, partnership or other person or entity with respect to benefits paid as custodian, trustee or depository for an individual retirement account (IRA) or simplified employee pension plan (SEPP).

"Miscellaneous payroll period" means a payroll period other than a daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannual, or annual payroll period.

"Payroll period" means a period for which a payment of wages is ordinarily made to the employee by his employer.

"Wages" means wages as defined under § 3401 (a) of the Internal Revenue Code, as well as any other amounts from which federal income tax is withheld under the provisions of §§ 3402 and 3405 of the Internal Revenue Code and also includes all prizes in excess of \$5,001 paid by the Virginia Lottery and Gaming Department; however, such term shall not include amounts paid pursuant to individual retirement plans and simplified employee pension plans as defined in §§ 7701 (a)(37) and 408 (c) of the Internal Revenue Code and shall not include remuneration paid for acting in or service as a member of the crew of a (i) motion picture feature film, (ii) television series or commercial, or (iii) promotional film filmed totally or partially in the Commonwealth by an individual or corporation which conducts business in the Commonwealth for less than 90 days of the tax year and when such film, series or commercial is processed, edited and marketed outside the Commonwealth. Every such individual or corporation shall, immediately subsequent to the filming of such portion of the film, series or commercial filmed in the Commonwealth, file with the Commissioner on forms furnished the Department, a list of the names and social security account numbers of each actor or crew member who is a resident of the Commonwealth and is compensated by such individual or corporation.

CHAPTER 40.

VIRGINIA LOTTERY AND GAMING LAW; SPORTS BETTING.

Article 1. Powers and Duties of Virginia Lottery and Gaming Oversight Board; Administration of Tickets and Prizes.

§ 58.1-4000. Short title.

This article shall be known and may be cited as the "Virginia Lottery and Gaming Law."

§ 58.1-4002. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Board" means the Virginia Lottery and Gaming Oversight Board established by this chapter.

"Casino gaming" or "game" means baccarat, blackjack, twenty-one, poker, craps, dice, slot machines, roulette wheels, Klondike tables, punchboards, faro layouts, numbers tickets, push cards, jar tickets, or pull tabs and any other activity that is authorized by the Board as a wagering game or device under Chapter 41 (§ 58.1-4100 et seq.). "Casino gaming" or "game" includes on-premises mobile casino gaming.

"Department" means the Virginia Lottery and Gaming Department, which is the independent agency responsible for the administration of the Virginia Lottery pursuant to this article and, the regulation of sports betting pursuant to Article 2 (§ 58.1-4030 et seq.), and the regulation of electronic gaming devices pursuant to Article 3 (§ 58.1-4048 et seq.).

"Director" means the Director of the Virginia Lottery and Gaming Department.

"Lottery" or "state lottery" means the lottery or lotteries established and operated pursuant to this chapter article.

"On-premises mobile casino gaming" means casino gaming offered by a casino gaming operator at a casino gaming establishment using a computer network of both federal and nonfederal interoperable packet-switched data networks through which the casino gaming operator may offer casino gaming to individuals who have established an on-premises mobile casino gaming account with the casino gaming operator and who are physically present on the premises of the casino gaming establishment, as authorized by regulations promulgated by the Board.

"Sports betting" means placing wagers on sporting events as such activity is regulated by the Board.

"Ticket courier service" means a service operated for the purpose of purchasing Virginia Lottery tickets on behalf of individuals located within or outside the Commonwealth and delivering or transmitting such tickets, or electronic images thereof, to such individuals as a business-for-profit delivery service.

"Voluntary exclusion program" means a program established by the Board pursuant to § 58.1-4015.1 that allows individuals to voluntarily exclude themselves from engaging in the activities described in subdivision B 1 of § 58.1-4015.1 by placing their name on a voluntary exclusion list and following the

2519 procedures set forth by the Board.

2520 **§ 58.1-4003. Virginia Lottery and Gaming Department established.**

2521 Notwithstanding the provisions of Article 1 (§ 18.2-325 et seq.) of Chapter 8 of Title 18.2 or any
2522 other provision of law, there is hereby established as an independent agency of the Commonwealth,
2523 exclusive of the legislative, executive or judicial branches of government, the Virginia Lottery *and*
2524 *Gaming Department*, which shall include a Director and a Virginia Lottery *and Gaming Oversight Board*
2525 for the purpose of operating a state lottery *and regulating electronic gaming devices pursuant to Article*
2526 *3 (§ 58.1-4048 et seq.)*.

2527 **§ 58.1-4006. Powers of the Director.**

2528 A. The Director shall supervise and administer:

2529 1. The operation of the lottery in accordance with the provisions of this chapter and with the rules
2530 and regulations promulgated hereunder; ~~and~~

2531 2. The regulation of casino gaming in accordance with Chapter 41 (§ 58.1-4100 et seq.); *and*

2532 3. *The regulation of electronic gaming devices in accordance with Article 3 (§ 58.1-4048 et seq.) and*
2533 *with the rules and regulations promulgated hereunder.*

2534 B. The Director shall also:

2535 1. Employ such deputy directors, professional, technical and clerical assistants, and other employees
2536 as may be required to carry out the functions and duties of the Department.

2537 2. Act as secretary and executive officer of the Board.

2538 3. Require bond or other surety satisfactory to the Director from licensed agents as provided in
2539 subsection E of § 58.1-4009 and Department employees with access to Department funds or lottery
2540 funds, in such amount as provided in the rules and regulations of the Board. The Director may also
2541 require bond from other employees as he deems necessary.

2542 4. Confer regularly, but not less than four times each year, with the Board on the operation and
2543 administration of the lottery ~~and~~, the regulation of casino gaming, *and the regulation of electronic*
2544 *gaming devices*; make available for inspection by the Board, upon request, all books, records, files, and
2545 other information and documents of the Department; and advise the Board and recommend such matters
2546 as he deems necessary and advisable to improve the operation and administration of the lottery ~~and~~, the
2547 regulation of casino gaming, *and the regulation of electronic gaming devices.*

2548 5. Suspend, revoke, or refuse to renew any license issued pursuant to this chapter or the rules and
2549 regulations adopted hereunder.

2550 6. Suspend, revoke, or refuse to renew any license or permit issued pursuant to Chapter 41
2551 (§ 58.1-4100 et seq.).

2552 7. Eject or exclude from a casino gaming establishment any person, whether or not he possesses a
2553 license or permit, whose conduct or reputation is such that his presence may, in the opinion of the
2554 Director, reflect negatively on the honesty and integrity of casino gaming or interfere with the orderly
2555 gaming operations.

2556 8. Immediately upon the receipt of a credible complaint of an alleged criminal violation of Chapter
2557 41 (§ 58.1-4100 et seq.), report the complaint to the Attorney General and the State Police for
2558 appropriate action.

2559 9. Inspect and investigate, and have free access to, the offices, facilities, or other places of business
2560 of any licensee or permit holder and may compel the production of any of the books, documents,
2561 records, or memoranda of any licensee or permit holder for the purpose of ensuring compliance with
2562 Chapter 41 (§ 58.1-4100 et seq.) and Department regulations.

2563 10. Compel any person holding a license or permit pursuant to Chapter 41 (§ 58.1-4100 et seq.) to
2564 file with the Department such information as shall appear to the Director to be necessary for the
2565 performance of the Department's functions, including financial statements and information relative to
2566 principals and all others with any pecuniary interest in such person.

2567 11. Impose a fine or penalty not to exceed \$1 million upon any person determined, in proceedings
2568 commenced pursuant to § 58.1-4105, to have violated any of the provisions of Chapter 41 (§ 58.1-4100
2569 et seq.) or regulations promulgated by the Board.

2570 12. Enter into arrangements with any foreign or domestic governmental agency for the purposes of
2571 exchanging information or performing any other act to better ensure the proper conduct of casino
2572 gaming operations or the efficient conduct of the Director's duties.

2573 13. Enter into contracts for the operation of the lottery, or any part thereof, for the promotion of the
2574 lottery and into interstate lottery contracts with other states. A contract awarded or entered into by the
2575 Director shall not be assigned by the holder thereof except by specific approval of the Director.

2576 14. Certify monthly to the State Comptroller and the Board a full and complete statement of lottery
2577 revenues, prize disbursements and other expenses for the preceding month.

2578 15. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate
2579 Committee on Finance and Appropriations, House Committee on Finance, and House Committee on
2580 Appropriations the total lottery revenues, prize disbursements, and other expenses for the preceding

month and make an annual report, which shall include a full and complete statement of lottery revenues, prize disbursements, and other expenses, as well as a separate financial statement of the expenses incurred in the regulation of casino gaming operations as defined in § 58.1-4100, to the Governor and the General Assembly. Such annual report shall also include such recommendations for changes in this chapter and Chapter 41 (§ 58.1-4100 et seq.) as the Director and Board deem necessary or desirable.

16. Report immediately to the Governor and the General Assembly any matters that require immediate changes in the laws of the Commonwealth in order to prevent abuses and evasions of this chapter and Chapter 41 (§ 58.1-4100 et seq.) or the rules and regulations adopted hereunder or to rectify undesirable conditions in connection with the administration or operation of the lottery *or the regulation of electronic gaming devices*.

17. Notify prize winners and appropriate state and federal agencies of the payment of prizes in excess of \$600 in the manner required by the lottery rules and regulations.

18. Provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize for a winning ticket in excess of \$5,001.

C. The Director and the director of security or investigators appointed by the Director shall be vested with the powers of sheriff and sworn to enforce the statutes and regulations pertaining to the Department and to investigate violations of the statutes and regulations that the Director is required to enforce.

D. The Director may authorize temporary bonus or incentive programs for payments to licensed sales agents that he determines will be cost effective and support increased sales of lottery products.

§ 58.1-4007. Powers of the Board.

A. The Board shall have the power to adopt regulations governing the establishment and operation of a lottery pursuant to this article ~~and~~, sports betting pursuant to Article 2 (§ 58.1-4030 et seq.), *and the regulation of electronic gaming devices pursuant to Article 3 (§ 58.1-4048 et seq.)*. The regulations governing the establishment and operation of the lottery ~~and~~, sports betting, *and the regulation of electronic gaming devices* shall be promulgated by the Board after consultation with the Director. Such regulations shall be in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). The regulations shall provide for all matters necessary or desirable for the efficient, honest, and economical operation and administration of the lottery ~~and~~, sports betting, *and the regulation of electronic gaming devices* and for the convenience of the purchasers of tickets or shares, the holders of winning tickets or shares, ~~and~~ sports bettors, *and the players of electronic gaming devices*. The regulations, which may be amended, repealed, or supplemented as necessary, shall include the following:

1. The type or types of lottery or game to be conducted in accordance with § 58.1-4001.
2. The price or prices of tickets or shares in the lottery.
3. The numbers and sizes of the prizes on the winning tickets or shares, including informing the public of the approximate odds of winning and the proportion of lottery revenues (i) disbursed as prizes and (ii) returned to the Commonwealth as net revenues.
4. The manner of selecting the winning tickets or shares.
5. The manner of payment of prizes to the holders of winning tickets or shares.
6. The frequency of the drawings or selections of winning tickets or shares without limitation.
7. Without limitation as to number, the type or types of locations at which tickets or shares may be sold.

8. The method to be used in selling tickets or shares, including the sale of tickets or shares over the Internet.

9. The advertisement of the lottery in accordance with the provisions of subsection E of § 58.1-4022.

10. The licensing of agents to sell tickets or shares who will best serve the public convenience and promote the sale of tickets or shares. No person under the age of 18 shall be licensed as an agent. A licensed agent may employ a person who is 16 years of age or older to sell or otherwise vend tickets at the agent's place of business so long as the employee is supervised in the selling or vending of tickets by the manager or supervisor in charge at the location where the tickets are being sold. Employment of such person shall be in compliance with Chapter 5 (§ 40.1-78 et seq.) of Title 40.1.

11. The manner and amount of compensation, if any, to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public. Notwithstanding the provisions of this subdivision, the Board shall not be required to approve temporary bonus or incentive programs for payments to licensed sales agents.

12. Apportionment of the total revenues accruing from the sale of tickets or shares and from all other sources and establishment of the amount of the special reserve fund as provided in § 58.1-4022.

13. Such other matters necessary or desirable for the efficient and economical operation and administration of the lottery.

14. The operation of sports betting pursuant to Article 2 (§ 58.1-4030 et seq.). In adopting such regulations, the Board shall establish a consumer protection program and publish a consumer protection bill of rights. Such program and bill of rights shall include measures to protect sports bettors, as defined

in § 58.1-4030, with respect to identity, funds and accounts, consumer complaints, self-exclusion, and any other consumer protection measure the Board determines to be reasonable.

15. The administration of a voluntary exclusion program as provided in § 58.1-4015.1.

The Department shall not be subject to the provisions of Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2; however, the Board shall promulgate regulations, after consultation with the Director, relative to departmental procurement which include standards of ethics for procurement consistent with the provisions of Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 and which ensure that departmental procurement will be based on competitive principles.

The Board shall have the power to advise and recommend, but shall have no power to veto or modify administrative decisions of the Director. However, the Board shall have the power to accept, modify or reject any revenue projections before such projections are forwarded to the Governor.

B. The Board shall carry on a continuous study and investigation of the lottery ~~and~~, sports betting, *and electronic gaming devices* throughout the Commonwealth to:

1. Ascertain any defects of this chapter or the regulations issued hereunder which cause abuses in the administration and operation of the lottery ~~and~~, sports betting ~~and~~, *or the regulation of electronic gaming devices* or any evasions of such provisions.

2. Formulate, with the Director, recommendations for changes in this chapter and the regulations promulgated hereunder to prevent such abuses and evasions.

3. Guard against the use of this chapter and the regulations promulgated hereunder as a subterfuge for organized crime and illegal gambling.

4. Ensure that this law and the regulations of the Board are in such form and are so administered as to serve the true purpose of this chapter.

C. The Board shall make a continuous study and investigation of (i) the operation and the administration of similar laws that may be in effect in other states or countries, (ii) any literature on the subject that may be published or available, (iii) any federal laws that may affect the operation of the lottery ~~and~~, sports betting, *and electronic gaming devices*, and (iv) the reaction of Virginia citizens to the potential features of the lottery and sports betting with a view to recommending or effecting changes that will serve the purpose of this chapter.

D. The Board shall hear and decide an appeal of any:

~~denial~~ 1. *Denial* by the Director of the licensing or revocation of a license of a lottery agent pursuant to subdivision A 10 of this section and subdivision B 5 of § 58.1-4006. ~~The Board shall hear and decide an appeal of any penalty;~~

2. *Penalty*, denial of a permit or renewal, or suspension or revocation of a permit imposed by the Director pursuant to Article 2 (§ 58.1-4030 et seq.); *and*

3. *Penalty, any denial by the Director of a license or renewal, or any suspension or revocation of a license imposed by the Director pursuant to Article 3 (§ 58.1-4048 et seq.).*

E. The Board shall have the authority to initiate procedures for the planning, acquisition, and construction of capital projects as set forth in Article 4 (§ 2.2-1129 et seq.) of Chapter 11 and Article 3 (§ 2.2-1819 et seq.) of Chapter 18 of Title 2.2.

F. The Board may adjust the percentage of uncollectible gaming receivables allowed to be subtracted from adjusted gross revenue, as defined in § 58.1-4030, if it determines that a different percentage is reasonable and customary in the sports betting industry.

§ 58.1-4008. Employees of the Department; background investigations of employees.

All persons employed by the Department shall be fingerprinted before, and as a condition of, employment. These fingerprints shall be submitted to the Federal Bureau of Investigation for a National Criminal Records search and to the Department of State Police for a Virginia Criminal History Records search. All board members, officers and employees of any vendor to the Department of lottery ~~on-line~~ *online* or instant ticket goods or services working directly on a contract with the Department for such goods or services shall be fingerprinted, and such fingerprints shall be submitted to the Federal Bureau of Investigation for a National Criminal Records search conducted by the chief security officer of the ~~Virginia Lottery Department~~. A background investigation shall be conducted by the chief security officer of the ~~Virginia Lottery Department~~ on every applicant prior to employment by the Department. However, all division directors of the ~~Virginia Lottery Department~~ and employees of the ~~Virginia Lottery Department~~ performing duties primarily related to security matters shall be subject to a background investigation report conducted by the Department of State Police prior to employment by the Department. The Department of State Police shall be reimbursed by the ~~Virginia Lottery Department~~ for the cost of investigations conducted pursuant to this section or § 58.1-4005. No person who has been convicted of a felony, bookmaking or other forms of illegal gambling, or of a crime involving moral turpitude shall be employed by the Department or on contracts with vendors described in this section.

§ 58.1-4009. Licensing of lottery sales agents; penalty.

A. No license as an agent to sell lottery tickets or shares shall be issued to any person to engage in business primarily as a lottery sales agent. Before issuing such license, the Director shall consider such

factors as (i) the financial responsibility and security of the person and his business or activity; (ii) the accessibility of his place of business or activity to the public; (iii) the sufficiency of existing licensees to serve the public convenience; and (iv) the volume of expected sales.

B. For the purposes of this section, the term "person" means an individual, association, partnership, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" also means all departments, commissions, agencies, and instrumentalities of the Commonwealth, including counties, cities, municipalities, agencies, and instrumentalities thereof.

C. The chief security officer of the *Virginia Lottery Department* shall conduct a background investigation, to include a Virginia Criminal History Records search, and fingerprints that shall be submitted to the Federal Bureau of Investigation if the Director deems a National Criminal Records search necessary, on applicants for licensure as lottery sales agents. The Director may refuse to issue a license to operate as an agent to sell lottery tickets or shares to any person who has been (i) convicted of a crime involving moral turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii) found guilty of any fraud or misrepresentation in any connection, (iv) convicted of a felony, or (v) engaged in conduct prejudicial to public confidence in the Lottery. The Director may refuse to grant a license or may suspend, revoke or refuse to renew a license issued pursuant to this chapter to a partnership or corporation, if he determines that any general or limited partner, or officer or director of such partnership or corporation has been (a) convicted of a crime involving moral turpitude, (b) convicted of bookmaking or other forms of illegal gambling, (c) found guilty of any fraud or misrepresentation in any connection, (d) convicted of a felony, or (e) engaged in conduct prejudicial to public confidence in the Lottery. Whoever knowingly and willfully falsifies, conceals, or misrepresents a material fact or knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any application for licensure to the *Virginia Lottery Department* for lottery sales agent is guilty of a Class 1 misdemeanor.

D. In the event an applicant is a former lottery sales agent whose license was suspended, revoked, or refused renewal pursuant to this section or § 58.1-4012, no application for a new license to sell lottery tickets or shares shall be considered for a minimum period of 90 days following the suspension, revocation, or refusal to renew.

E. Prior to issuance of a license, every lottery sales agent shall either (i) be bonded by a surety company entitled to do business in this Commonwealth in such amount and penalty as may be prescribed by the regulations of the Department or (ii) provide such other surety as may be satisfactory to the Director, payable to the *Virginia Lottery and Gaming Department* and conditioned upon the faithful performance of his duties.

F. Every licensed agent shall prominently display his license, or a copy thereof, as provided in the regulations of the Department.

§ 58.1-4011. Meaning of "gross receipts."

A. Notwithstanding the provisions of Chapter 37 (§ 58.1-3700 et seq.) or § 58.1-4025 relating to local license taxes, the term "gross receipts" as used in Chapter 37 shall include only the compensation actually paid to a licensed sales agent as provided by rule or regulation adopted by the Board consistent with the provisions of subdivision A 11 of § 58.1-4007.

B. Unless otherwise provided by contract, any person licensed as a lottery agent who makes rental payments for the business premises on which state lottery tickets are sold on the basis of retail sales shall have that portion of rental payment based on sales of state lottery tickets or shares computed on the basis of the compensation received as a lottery agent from the *Virginia Lottery Department*.

§ 58.1-4012. Suspension and revocation of licenses.

The Director may suspend, revoke, or refuse to renew, after notice and a hearing, any license issued pursuant to this chapter. Such license may, however, be temporarily suspended by the Director without prior notice, pending any prosecution, hearing or investigation, whether by a third party or by the Director. A license may be suspended, revoked, or refused renewal by the Director for one or more of the following reasons:

1. Failure to properly account for lottery tickets received or the proceeds of the sale of lottery tickets;
2. Failure to file a bond if required by the Director or to comply with instructions and rules and regulations of the Department concerning the licensed activity, especially with regard to the prompt payment of claims;
3. Conviction of any offense referenced in subsection C of § 58.1-4009 subsequent to licensure;
4. Failure to file any return or report, to keep records or to pay any fees or other charges required by this chapter;
5. Any act of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the Commonwealth lottery or the administration and regulation of electronic gaming devices;

2765 6. If the number of lottery tickets sold by the lottery sales agent is insufficient to meet administrative
 2766 costs and public convenience is adequately served by other licensees;

2767 7. A material change, since issuance of the license, with respect to any matters required to be
 2768 considered by the Director under this chapter; ~~or~~

2769 8. *Failure to pay any fees or penalties required by this chapter; or*

2770 9. Other factors established by Department regulation.

2771 **§ 58.1-4020.1. Voluntary assignment of lottery prizes or pledge as collateral for a loan;**
 2772 **requirements for the assignees and lenders.**

2773 A. Lottery prizes, payable in installments over a period of time, excluding prizes payable for the
 2774 winner's life, may be voluntarily assigned or pledged as collateral for a loan, in whole or in part, by the
 2775 person entitled to such installments, by written contract affirming that the requirements of this section
 2776 have been met and endorsed by written order of a court of competent jurisdiction after a hearing. The
 2777 order shall specify the name, address and social security number or tax identification number of the
 2778 assignee or lender and shall specifically describe the payments be assigned or pledged as collateral by
 2779 date and gross pre-tax amount. The Department shall be given notice of any hearing held pursuant to
 2780 this section and shall have the right to appear and participate in such hearing. Venue for hearings held
 2781 pursuant to this section shall be in the Circuit Court of the City of Richmond.

2782 The rate charged for any such assignment or loan shall not exceed 15 percent.

2783 The contract shall:

2784 1. Be signed by the assignor and the assignee or the lender and the borrower, and the assignor or
 2785 borrower shall affirm the assignment or loan has been voluntarily executed.

2786 2. Include or be accompanied by a sworn statement attesting that the assignor or borrower (i) is of
 2787 sound mind and not acting under duress; (ii) has been advised in writing by the assignee or lender to
 2788 seek independent legal counsel and independent financial counsel concerning the implications of the
 2789 assignment or loan, including the tax consequences, and has either received such advice or knowingly
 2790 waived such advice in writing; (iii) understands that he is relinquishing or limiting his rights to receive
 2791 the lottery proceeds; and (iv) has received from the ~~Virginia Lottery Department~~, in response to a
 2792 written request therefor, confirmation of the assignee's or lender's registration with the ~~Virginia Lottery~~
 2793 ~~Department~~ in accordance with subsection E ~~of this section~~.

2794 3. Include a disclosure statement setting forth (i) the amounts assigned or loaned; (ii) the dates such
 2795 amounts are payable; (iii) the purchase price paid for the assignment or loan; (iv) the rate of discount to
 2796 present value, assuming daily compounding and funding on the contract date; (v) the amount of any fees
 2797 associated with the assignment or loan and by whom such fees are payable; and (vi) the tax
 2798 identification number of the assignee.

2799 4. Expressly state that the assignor or borrower has three business days after signing the contract to
 2800 cancel the assignment or loan.

2801 5. Expressly state that the assignee or lender is eligible to purchase, share or receive prizes of the
 2802 ~~Virginia Lottery Department~~ pursuant to §§ 58.1-4015, 58.1-4016 and subsection A of § 58.1-4019, and
 2803 that the ~~Virginia Lottery Department~~ has complied with subsection B of § 58.1-4019 in that the original
 2804 prizewinner is (or if deceased, was) a natural person if and to the extent that the prize was awarded on
 2805 or after the effective date pursuant to subsection B of § 58.1-4019.

2806 6. Expressly state that no amounts assigned or loaned are subject to setoff pursuant to Article 21
 2807 (§ 58.1-520 et seq.) of Chapter 3 ~~of this title~~.

2808 B. The Commonwealth, the ~~Virginia Lottery Department~~, and any employee or representative of
 2809 either shall be indemnified and held harmless upon payment of amounts due as set forth in the court
 2810 order.

2811 C. The ~~Lottery Department~~ may establish a reasonable fee to process the assignments provided for in
 2812 this section and to receive, review, and file the registration required by subsection E and confirm
 2813 compliance with the registration requirements. The fee shall be reflective of the direct and indirect costs
 2814 of processing the assignments or registrations.

2815 D. Notwithstanding the provisions of this section, the Commonwealth and the ~~Virginia Lottery~~
 2816 ~~Department~~ shall not accept any assignment if either of the following has occurred:

2817 1. Federal law provides that the right to assign lottery proceeds is deemed receipt of income in the
 2818 year the lottery prize is won for all installment lottery prize winners. "Federal law" includes statutory
 2819 law, rulings of courts of competent jurisdiction, and published rulings by the Internal Revenue Service.

2820 2. State law provides that the right to assign lottery proceeds is deemed receipt of income in the year
 2821 the lottery prize is won for all installment lottery prize winners. "State law" includes statutory law,
 2822 rulings of courts of competent jurisdiction, and published rulings by the Department of Taxation.

2823 E. An assignee, prospective assignee, lender, or prospective lender shall not make any representation
 2824 in any written or oral communications with a lottery winner that implies that the assignee, prospective
 2825 assignee, lender, or prospective lender is associated with or an agent of the ~~Virginia Lottery Department~~.
 2826 Every prospective assignee or prospective lender shall register with the ~~Virginia Lottery Department~~,

prior to contracting for any assignment or loan pursuant to this section. The registration shall include (i) the assignee's or lender's standard information packet or materials given or sent to prospective assignees or borrowers, (ii) the assignee's or lender's standard form of agreement, (iii) the assignee's or lender's federal tax identification number, and (iv) where applicable, the assignee's or lender's most recent public financial statement. The Director may deny, suspend or revoke a registration for a violation of this chapter or for such other reason as the Board, by regulation, may establish.

§ 58.1-4025. Exemption of lottery prizes and sales of tickets from state and local taxation.

Except as provided in Chapter 3 of Title 58.1 (§ 58.1-300 *et seq.*) and § 58.1-4011, no state or local taxes of any type whatsoever shall be imposed upon any prize awarded or upon the sale of any lottery ticket sold pursuant to the Virginia Lottery and Gaming Law.

§ 58.1-4027. Judicial review.

The action of the Board in (i) granting or denying a license or registration or in suspending or revoking any license or registration under the provisions of this article and; (ii) granting, denying, suspending, or revoking any permit or imposing any penalty pursuant to Article 2 (§ 58.1-4030 *et seq.*); and (iii) granting, denying, suspending, or revoking any license or imposing any penalty pursuant to Article 2 (§ 58.1-4048 *et seq.*) shall be subject to review in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 *et seq.*). Such review shall be limited to the evidential record of the proceedings provided by the Board. Both the petitioner and the Board shall have the right to appeal to the Court of Appeals from any order of the court.

Article 3.

Electronic Gaming Devices.

§ 58.1-4048. Definitions.

As used in this article, unless the context requires a different meaning:

"Distributor" means any person that leases or buys electronic gaming devices from a manufacturer and sells, leases, or otherwise distributes them to operators. A distributor shall not contract directly with a host location.

"Electronic gaming device" means an electronic, computerized, or mechanical contrivance, terminal, machine, or other device that requires the insertion of a coin, currency, ticket, token, or similar object to operate, activate, or play a game, the outcome of which is determined entirely by chance through the use of a random number generator, and that may deliver or entitle the person playing or operating the device to receive cash in excess of the cost of operating, activating, or playing the game. "Electronic gaming device" does not include charitable games authorized pursuant to Article 1.1:1 (§ 18.2-340.15 *et seq.*) of Chapter 8 of Title 18.2, sports betting authorized under Article 2 (§ 58.1-4030 *et seq.*), casino gaming authorized under Chapter 41 (§ 58.1-4100 *et seq.*), or historical horse racing authorized pursuant to Chapter 29 (§ 59.1-364 *et seq.*) of Title 59.1.

"Gross profits" means all revenue generated from the play of electronic gaming devices minus prizes paid out to successful players.

"Gross revenue" means all revenue generated from the play of electronic gaming devices.

"Host location" means an establishment at which electronic gaming devices are placed and offered to the public for play.

"Independent testing laboratory" means a laboratory with a national reputation for honesty, independence, and timeliness that is demonstrably competent and qualified to scientifically test and evaluate electronic gaming devices for compliance with this article and to otherwise perform the functions assigned to it by this article. An independent testing laboratory shall not be owned or controlled by a manufacturer, distributor, operator, or host location licensee or the Commonwealth.

"Individual" means a natural person.

"Inducement" means (i) consideration paid, directly or indirectly, from a manufacturer, supplier, terminal operator, procurement agent, gaming employee, or nongaming employee, or another person on behalf of an applicant or licensee, to an establishment licensee, an establishment licensee owner, or an employee of the establishment licensee, directly or indirectly, as an enticement to solicit or maintain the establishment licensee or establishment licensee owner's business or (ii) cash, incentive, marketing and advertising cost, gift, food, beverage, loan, prepayment of gross terminal revenue, or other contribution or payment that offsets an establishment licensee's operational costs, or as otherwise determined by the Board.

"Inducement" does not include costs paid by a terminal operator applicant or licensee related to:

1. Structural changes necessary to segregate the electronic gaming area or maintain the security of video gaming terminals and redemption terminals as required by the Board that do not exceed \$2,500, provided, however, that any changes in excess of \$2,500 may be shared equally between the terminal applicant or licensee and the establishment applicant or licensee.

2. Surveillance technology to monitor only the video gaming area.

3. Making video gaming terminals operate at a licensed establishment, including wiring and

rewiring, software updates, ongoing video gaming terminal maintenance, redemption terminals, network connections, site controllers and costs associated with communicating with the central control computer system.

4. Installation of security and alarm systems at an establishment licensee's premises that are reasonably necessary to protect video gaming terminals.

5. Any requirement established by the Board regarding minimum standards for a video gaming area.

6. Any cosmetic renovations or improvements within a video gaming area that are reasonably necessary, as determined by the Board, to provide a suitable environment for players.

7. Fees established by the Board.

"Institutional investor" means a retirement fund administered by a public agency for the exclusive benefit of federal, state, or local public employees, an investment company registered under the Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. § 80a-1 et seq.), a collective investment trust organized by banks under Part Nine of the Rules of the Comptroller of the Currency, a closed-end investment trust, a chartered or licensed life insurance company or property and casualty insurance company, a banking or other chartered or licensed lending institution, an investment advisor registered under the Investment Advisers Act of 1940 (54 Stat. 847, 15 U.S.C. § 80b-1 et seq.), and such other person as the Board may determine is consistent with this definition.

"Licensee" or "license holder" means any person holding a manufacturer, distributor, operator, or host location license under this article.

"Manufacturer" means any person that manufactures and sells or leases major components or parts, including software and hardware, for electronic gaming devices to distributors or operators.

"Operator" means any person that leases or owns electronic gaming devices and provides such terminals to host locations.

"Person" means any individual, group of individuals, firm, company, corporation, partnership, business, trust, association, or other legal entity.

"Player" means an individual who plays an electronic gaming device.

"Procurement agent" means a person that acts as the agent of an operator or operators and shares in the gross profits or is otherwise compensated for the purpose of soliciting or procuring a written agreement between an operator licensee and a host location licensee for the placement of an electronic gaming device by the operator at the host location.

"Publicly traded corporation" means a person, other than an individual, that (i) has a class or series of securities registered under the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. § 78a et seq.), (ii) is a registered management company under the Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. § 80a-1 et seq.), or (iii) is subject to the reporting obligations imposed by § 15(d) of the Securities Exchange Act of 1934 by reason of having filed a registration statement that has become effective under the Securities Act of 1933 (48 Stat. 74, 15 U.S.C. § 77a et seq.).

"Single play" means the period beginning when a player activates and pays for the interactive game play function of an electronic gaming device and ending at the time when the game play function or series of free subgames thereunder will not continue without payment by the player of additional consideration.

"Skill game" has the same meaning as such term is defined in § 18.2-325.

"Subsidiary" means a person, other than an individual, including (i) a corporation, a significant part of whose outstanding equity securities are owned, subject to a power or right of control or held with power to vote, by a holding company or an intermediary company; (ii) a significant interest in a person, other than an individual, that is owned, subject to a power or right of control or held with power to vote, by a holding company or an intermediary company; or (iii) a person deemed to be a subsidiary by the Board.

"Successful player" means an individual who wins on one or more plays of an electronic gaming device.

"Ticket redemption terminal" means a terminal where a voucher dispensed by an electronic gaming device may be redeemed for cash or a cash equivalent.

"Truck stop" means an establishment that (i) is equipped with diesel islands used for fueling commercial motor vehicles; (ii) has sold, or reasonably anticipates selling, at least 10,000 gallons of diesel fuel per month; (iii) has parking spaces dedicated to commercial motor vehicles; (iv) has a convenience store; and (v) is situated on not less than two acres of land that the establishment owns or leases.

§ 58.1-4049. Powers and duties of the Director related to electronic gaming devices; reporting.

A. The Director shall have the following additional powers and duties related to the regulation of electronic gaming devices:

1. Issue licenses under this article, and supervise all activities licensed under the provisions of this article, including the manufacturing, distributing, operating, hosting, and playing of electronic gaming devices;

2. Suspend, revoke, or refuse to renew any license issued pursuant to this article or the rules and regulations adopted pursuant to this article;

3. Inspect, investigate, and have free access to the offices, facilities, or other places of business of any licensee, and compel the production of any books, documents, records, or memoranda of any licensee for the purpose of satisfying himself that this article and Board regulations are strictly complied with;

4. Order such audits as deemed necessary;

5. Certify monthly to the State Comptroller and the Board a full and complete statement of electronic gaming device revenue and expenses for the previous month;

6. Assess and collect civil penalties for violations of this article and Board regulations;

7. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate Committee on Finance and Appropriations, House Committee on Finance, and House Committee on Appropriations the total electronic gaming device revenues and expenses for the previous month and make an annual report, which shall include a full and complete statement of electronic gaming device revenues and expenses, to the Governor and the General Assembly, including recommendations for changes in this article as the Director and Board deem prudent; and

8. Do all acts necessary and advisable to carry out the purposes of this article.

B. The Director may require bond or other surety satisfactory to the Director from license holders in such amount as provided in the rules and regulations of the Board adopted under this article.

C. Upon request by the commissioner of the revenue or other assessing official of a locality, the Director shall provide to such commissioner of the revenue or other assessing official of such locality the tax revenue collected in such locality pursuant to this article from each electronic gaming device, from each host location, and from all electronic gaming devices and host locations in the aggregate.

§ 58.1-4050. Powers and duties of the Board related to electronic gaming devices.

In addition to the regulations adopted pursuant to § 58.1-4007, the Board shall promulgate regulations related to electronic gaming devices that:

1. Develop such forms, licenses, identification cards, and applications as are necessary or convenient for the administration of this article;

2. Provide a schedule of application, license, and renewal fees that shall be sufficient to cover the costs of the administration and regulation of electronic gaming devices pursuant to this article;

3. Establish requirements for all licensees under this article for the form, content, and retention of all records and accounts;

4. Establish a process for the approval or disapproval of electronic gaming devices and games offered on such devices;

5. Establish cash handling procedures for operator and host location licensees that require such licensees to keep separate accounts for gaming and nongaming transactions;

6. Require inspections of all licensees at a frequency determined by the Board; and

7. Establish a program of periodic testing and inspection for all electronic gaming devices.

§ 58.1-4051. Licenses that may be granted by the Director.

A. The Director may grant the following licenses:

1. Manufacturer license, which shall authorize the licensee to manufacture and sell or lease to distributors and operators major components or parts, including software and hardware, for electronic gaming devices.

2. Distributor license, which shall authorize the licensee to lease or buy electronic gaming devices from a manufacturer and lease, sell, or otherwise distribute them to operators.

3. Operator license, which shall authorize the licensee to (i) buy or lease electronic gaming devices from a manufacturer or distributor, (ii) supply such devices to host locations, and (iii) maintain and service such devices.

4. Host location license, which shall authorize the licensee to allow the placement and offering for play by the public of electronic gaming devices at such licensee's establishment.

B. Notwithstanding the provisions of subsection A, no application or license shall be required by the Director for an institutional investor if the institutional investor holds less than 10 percent of the securities or other ownership interests referred to in a licensee, the securities or interests are publicly traded securities, and its holdings of the securities were purchased for investment purposes only. No application or license shall be required for an institutional investor that holds more than 10 percent of the securities or other ownership interests, so long as such institutional investor files with the Director a certified statement to the effect that it has no intention of influencing or affecting, directly or indirectly, the affairs of the licensee, provided, however, that such institutional investor shall be permitted to vote on matters put to the vote of the outstanding security holders.

§ 58.1-4052. General licensing requirements; penalty.

A. An applicant for a manufacturer, distributor, operator, or host location license shall submit an

3011 application to the Director on forms provided by the Director, accompanied by any fees required by the
3012 Board.

3013 B. The chief security officer of the Department shall conduct a background investigation, to include a
3014 Virginia criminal history records search and fingerprinting, that shall be submitted to the Federal
3015 Bureau of Investigation if the Director deems a national criminal history records search is necessary, on
3016 applicants for licensure pursuant to this article.

3017 C. The Director shall refuse to grant a license or shall suspend, revoke, or refuse to renew a license
3018 issued pursuant to this article to any person who has been (i) convicted of a crime involving moral
3019 turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii) found guilty of any fraud
3020 or misrepresentation in any connection, (iv) convicted of a felony, or (v) found to have engaged in
3021 conduct prejudicial to public confidence in electronic gaming devices.

3022 D. The Director shall refuse to grant a license or shall suspend, revoke, or refuse to renew a license
3023 issued pursuant to this article to a partnership or corporation if he determines that any general or
3024 limited partner, or officer or director of such partnership or corporation, has been (i) convicted of a
3025 crime involving moral turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii)
3026 found guilty of any fraud or misrepresentation in any connection, (iv) convicted of a felony, or (v) found
3027 to have engaged in conduct prejudicial to public confidence in electronic gaming devices.

3028 E. The Director may also refuse to grant a license pursuant to this article if:

3029 1. The Director reasonably believes that the applicant or any general or limited partner, or officer
3030 or director of such applicant lacks good character, honesty, or integrity;

3031 2. The Director reasonably believes that the applicant's prior activities, criminal record, reputation,
3032 or associations are likely to either (i) pose a threat to the public interest, (ii) impede the regulation of
3033 electronic gaming devices, or (iii) promote unfair or illegal activities in the conduct of electronic
3034 gaming devices;

3035 3. The applicant or any general or limited partner or any officer or director of such applicant
3036 knowingly makes a false statement of material fact or deliberately fails to disclose information requested
3037 by the Director;

3038 4. The applicant or any general or limited partner or any officer or director of such applicant
3039 knowingly fails to comply with the provisions of this article or any requirements of the Director;

3040 5. The applicant's license to manufacture, distribute, operate, or offer to the public for play an
3041 electronic gaming device issued by any other jurisdiction has been suspended or revoked;

3042 6. The applicant defaults in payment of any obligation or debt due to the Commonwealth; or

3043 7. The applicant's application is incomplete.

3044 F. The Director shall suspend, revoke, or refuse to grant a license to act as an operator or
3045 distributor pursuant to this article to any person, partnership, or corporation, if the Director determines
3046 that such person, partnership, or corporation continued to manufacture, operate, or distribute skill
3047 games in the Commonwealth on or after July 1, 2021. The provisions of this subsection shall not apply
3048 to an application to operate as a host location.

3049 G. Any person who knowingly and willfully falsifies, conceals, or misrepresents a material fact or
3050 knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any
3051 application pursuant to this article is guilty of a Class 1 misdemeanor. The Director shall revoke the
3052 license of a licensee if, subsequent to the issuance of the license, the Director determines that the
3053 licensee knowingly or recklessly made a false statement of material fact to the Director in applying for
3054 the license.

3055 **§ 58.1-4053. License posting; expiration.**

3056 A. Each license granted by the Director shall designate the place where the business of the licensee
3057 will be carried out.

3058 B. Each license shall be posted in a location conspicuous to the public at the place where the
3059 licensee carries out the business for which the license is granted.

3060 C. The privileges conferred by any license granted by the Director shall continue until the last day
3061 of the twelfth month next ensuing or the last day of the designated month and year of expiration, except
3062 the license may be sooner terminated for any cause for which the Director would be entitled to refuse to
3063 grant a license or by operation of law, voluntary surrender, or order of the Director.

3064 D. The Director may grant licenses for one year or for multiple years, not to exceed five years.
3065 Qualifications for a multiyear license shall be determined on the basis of criteria established by the
3066 Director. Fees for multiyear licenses shall not be refundable.

3067 E. At least 60 days before the expiration of a license, the license holder may submit a renewal
3068 application on forms prescribed by the Director. The Director may deny a license renewal if he finds
3069 grounds for denial as described in § 58.1-4052.

3070 **§ 58.1-4054. Prohibition against the issuance of multiple licenses to one person.**

3071 A. For purposes of this section, "interest" means an equity ownership interest or a partial equity
3072 ownership interest or any other type of financial interest, including but not limited to being an investor

or serving in a management position.

B. No licensee that has been issued a manufacturer license shall be issued a distributor license, operator license, or host location license, or have any interest in a distributor licensee, operator licensee, or host location licensee.

C. No licensee that has been issued a distributor license shall be issued a manufacturer license, operator license, or host location license, or have any interest in a manufacturer licensee, operator licensee, or host location licensee.

D. No licensee that has been issued an operator license shall be issued a manufacturer license, distributor license, or host location license, or have any interest in a manufacturer licensee, distributor licensee, or host location licensee.

E. No licensee that has been issued a host location license shall be issued a manufacturer license, distributor license, or operator license, or have any interest in a manufacturer licensee, distributor licensee, or operator licensee.

§ 58.1-4055. Prohibition against transferring licenses without approval by Director.

A licensee may not transfer its license, or assign responsibility for compliance with the conditions of its license, to any party, including a transfer of effective control of the licensee, without approval by the Director.

§ 58.1-4056. Suspension and revocation of licenses; civil penalties; hearing and appeal.

A. If the Director determines that any provision of this article, or any regulation or condition of the Board, has not been complied with or has been violated by a licensee, he may, with at least 15 days' notice and a hearing, (i) assess a civil penalty against the holder thereof in a sum not to exceed \$100,000 and (ii) suspend or revoke the license holder's license. If any license is suspended or revoked, the Director shall state his reasons for doing so, which shall be entered of record.

B. Any person aggrieved by a refusal of the Director to issue any license, the suspension or revocation of a license, the imposition of a fine, or any other action of the Director may seek review of such action in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act in the Circuit Court of the City of Richmond. Further appeals shall also be in accordance with Article 5 of the Administrative Process Act.

C. Suspension or revocation of a license by the Director for any violation shall not preclude criminal liability for such violation.

§ 58.1-4057. Requirement for written agreement between operator licensee and host location licensee; division of revenue.

A. No operator licensee may place or maintain an electronic gaming device on the premises of a host location licensee unless the operator licensee and the host location licensee have entered into a written agreement that sets forth the terms and conditions for the placement and maintenance of such devices.

B. A copy of the written agreement shall be maintained in the business office of both the operator licensee and the host location licensee and shall be available at all times for inspection by the Director.

C. The written agreement shall be exclusive between one operator licensee and one host location licensee.

D. The written agreement shall be valid for a term of not less than five years.

E. The operator licensee and host location licensee shall agree within the written agreement to split equally the allocation of all gross profits from the play of electronic gaming devices between the two licensees. No person shall receive a portion of any proceeds from the play of electronic gaming devices except for distributor licensees and host location licensees.

F. An operator and a host location may not enter into a written agreement until both the operator and the host location are duly licensed pursuant to this article.

§ 58.1-4058. Approval of electronic gaming devices by the Director.

A. No electronic gaming device shall be offered for play by the public in the Commonwealth unless such electronic gaming device has first been approved by the Director.

B. Before selling, leasing, or otherwise providing an electronic gaming device to an operator, a manufacturer shall provide a prototype or production sample of such electronic gaming device to an independent testing laboratory that has been approved by the Director, which shall evaluate and certify whether such electronic gaming device meets the definition of electronic gaming device under § 58.1-4048, the requirements of § 58.1-4059, and any other requirements established in Board regulations.

Along with the prototype or production sample of the electronic gaming device, the manufacturer shall provide the following information concerning the electronic gaming device to the independent testing laboratory:

1. The method of determining the game outcome;
2. The available wagering denominations;

- 3134 3. The minimum wager amount;
3135 4. The maximum wager amount;
3136 5. The amount of takeout for each wager;
3137 6. The method of calculating winning payouts;
3138 7. Payout calculations set forth in sufficient detail to audit a payout through manual calculation;
3139 8. The minimum payouts and the method of guaranteeing minimum payouts; and
3140 9. Any other information requested by the independent testing laboratory or required by the Board
3141 for use in the testing of the electronic gaming device.

3142 The report of the independent testing laboratory shall be submitted by the manufacturer to the
3143 Director. The Director shall use the report in evaluating whether the electronic gaming device shall be
3144 approved under this article.

3145 If at any time a manufacturer makes a substantive change to any electronic gaming device that has
3146 previously been approved by the Director, such manufacturer shall resubmit the electronic gaming
3147 device to the Director in a manner prescribed by Board regulation.

3148 **§ 58.1-4059. Requirements of electronic gaming devices.**

3149 In addition to meeting the definition of electronic gaming device established in § 58.1-4048,
3150 electronic gaming devices shall:

- 3151 1. Show the rules of play for each game in a way that adequately describes or displays such
3152 information so that a reasonable person could understand the game prior to placing a wager;
3153 2. Accept only cash wagers;
3154 3. Make all possible game outcomes available upon the initiation of each game;
3155 4. Prohibit the modification of the rules of play for a game, including the probability and award of a
3156 game outcome, once a game is initiated;
3157 5. Prohibit the remote modification or manipulation of games;
3158 6. Pay out no more than \$1,199 in winnings for a single play of a game;
3159 7. Have a payout percentage of at least 85 percent;
3160 8. Have a power switch that is located inside of the device to prevent power from being switched off
3161 from outside of the device;
3162 9. Be designed such that power and data cables into and out of the device are routed so that they
3163 are not accessible by the general public;
3164 10. Have an identification badge affixed to the exterior of the device by the manufacturer that is not
3165 removable without leaving evidence of tampering. Such badge shall include the following information:
3166 a. The name of the manufacturer;
3167 b. A unique serial number;
3168 c. The device model number; and
3169 d. The date of manufacture;
3170 11. Be constructed of materials that are designed to allow only authorized access to the interior of
3171 the device. Such materials shall be designed to show evidence of tampering if unauthorized access does
3172 occur;
3173 12. Have seals between the device and the doors of a locked area that are designed to resist the use
3174 of tools or other objects used to breach the locked area by physical force;
3175 13. Have external doors that shall be locked and monitored by door access sensors;
3176 14. Have a currency storage area that is secured by two locks before the currency can be removed
3177 and that is only accessible by the operator licensee;
3178 15. Make payments to successful players by issuing a voucher that can be redeemed for cash at the
3179 host location's ticket redemption terminal;
3180 16. Have the ability to allow for an independent integrity check by an independent testing laboratory
3181 approved by the Director of all software that may affect the integrity of the game; and
3182 17. Be connected to the central monitoring system established and operated by the Department under
3183 the provisions of § 58.1-4061.

3184 **§ 58.1-4060. Independent integrity checks of electronic gambling devices.**

3185 A prototype or production sample of each type, version, or model of electronic gaming device being
3186 operated in the Commonwealth shall be tested by an independent testing laboratory approved by the
3187 Director to ensure its integrity and proper working order. This evaluation shall include a review of
3188 installed software periodically within a timeframe established by the Director.

3189 The independent testing laboratory's software may be embedded within the game software, utilize an
3190 interface port to communicate with the device, or require the removal of device media for external
3191 verification.

3192 The manufacturer licensee shall pay the cost of the independent testing laboratory's review and
3193 testing, and the reports of the same shall be delivered to the licensee and the Director.

3194 **§ 58.1-4061. Requirement for central monitoring system.**

3195 Each electronic gaming device and ticket redemption terminal being operated in the Commonwealth

shall be connected to a central monitoring system established and operated by the Department.

The central monitoring system shall collect the following information from each device: (i) cash in, (ii) payouts, (iii) points played, (iv) points won, (v) gross terminal income, (vi) net terminal income, (vii) the number of plays of the game, (viii) the amounts paid to play the game, (ix) all taxes accrued and paid, (x) door openings, (xi) power failures, (xii) remote activations and disabling, and (xiii) any other information required by Board regulations.

§ 58.1-4062. Requirements of operator licensees.

A. No operator licensee shall own or lease an electronic gaming device unless such device has been manufactured by and purchased or leased from a manufacturer licensee or distributor licensee. No contract between a distributor licensee and a manufacturer licensee or between an operator licensee and a manufacturer licensee shall grant the distributor licensee or operator licensee exclusive rights to own, maintain, or place a type, model, or brand of electronic gaming device in the Commonwealth.

B. No operator licensee shall place or maintain an electronic gaming device at any establishment where it is offered to the public for play for a charge, directly or indirectly, unless such establishment is a host location licensee.

C. Each operator licensee that places or maintains an electronic gaming device at any establishment where it is offered to the public for play for a charge, directly or indirectly, shall submit or confirm a report to the Department, on a frequency established by the Board, detailing:

1. The gross revenue of each electronic gaming device that the operator licensee owns and maintains; and

2. The gross profits of each electronic gaming device that the operator licensee owns and maintains.

§ 58.1-4063. Requirements of host location licensees.

A. The following locations are eligible to receive a host location license:

1. Establishments licensed to sell alcoholic beverages pursuant to Chapter 2 (§ 4.1-200 et seq.) of Title 4.1;

2. Qualified organizations permitted to conduct charitable gaming pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2; and

3. Truck stops.

B. No host location licensee shall allow an electronic gaming device to be placed upon the premises of such licensee's establishment unless such device is owned or leased and maintained by an operator licensee.

C. Except for qualified organizations permitted to conduct charitable gaming pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, the primary business of a host location licensee shall not be the offering for play of electronic gaming devices.

D. Except for qualified organizations permitted to conduct charitable gaming pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, no host location licensee shall derive more than 50 percent of such location's annual gross receipts from its share of the gross profits derived from the play of electronic gaming devices at such location.

E. No more than five electronic gaming devices may be located in an establishment listed in subdivision A 1 or A 2. No more than 10 electronic gaming devices may be located in an establishment listed in subdivision A 3.

F. Each host location licensee shall submit or confirm a report to the Department, on a frequency established by the Board, detailing:

1. The gross receipts of the location;

2. The gross revenue of each electronic gaming device; and

3. The gross profits of each electronic gaming device.

§ 58.1-4064. Responsible gaming.

A. In an effort to promote responsible gaming by players, host location licensees shall:

1. Post in a conspicuous place a sign that bears a toll-free number for problem gambling assistance that has been approved by the Virginia Council on Problem Gambling or other organizations that provide assistance to problem gamblers;

2. Provide informational leaflets or other similar materials at the licensee's facilities on the dangers associated with problem gambling;

3. If the licensee holds a license from the Virginia Alcoholic Beverage Control Authority to serve alcoholic beverages, train its employees to identify patrons who have consumed excessive amounts of alcohol to prevent such patrons from continuing to engage in wagering activity while impaired; and

4. Make reasonable efforts to ensure that any request by a patron who wishes to self-exclude from the licensee's facilities is honored by the licensee.

B. Nothing contained in this section shall be construed to create any cause of action against the Board or Department for the failure of a host location licensee to comply with the requirements of this section.

3257 **§ 58.1-4065. Local regulation of electronic gaming devices.**

3258 A. A locality may adopt and enforce a local ordinance prohibiting the manufacturing, distributing,
3259 operating, hosting, or play of electronic gaming devices within such locality, provided that such
3260 ordinance is passed no later than six months following the enactment of this article. If the locality
3261 passes such an ordinance and later chooses to allow the manufacturing, distributing, operating, hosting,
3262 or play of electronic gaming devices within such locality, the locality may pass an ordinance to that
3263 effect; however, such locality shall be prohibited from once again passing an ordinance to prohibit any
3264 such activities.

3265 B. No license requirement, sticker fee, or tax shall be imposed by any locality upon an electronic
3266 gaming device manufacturer, distributor, operator, or host location relating to the operation of
3267 electronic gaming devices or associated equipment.

3268 **§ 58.1-4066. Tax on gross profits.**

3269 A. 1. There shall be imposed a tax of 34 percent on all gross profits from the play of electronic
3270 gaming devices.

3271 2. The tax imposed pursuant to this section shall not apply to any activity regulated under Article 2
3272 (§ 58.1-4030 et seq.) of this chapter or Chapter 41 (§ 58.1-4100 et seq.).

3273 B. The tax imposed pursuant to this section shall be remitted by the operator licensee to the
3274 Department at a frequency established by Board regulations. If the operator licensee's accounting
3275 necessitates corrections to a previously remitted tax, such licensee shall document such corrections when
3276 remitting the next tax installment.

3277 C. The taxes collected by the Department pursuant to this section shall be distributed pursuant to
3278 § 58.1-4067.

3279 **§ 58.1-4067. Distribution of tax revenue.**

3280 A. The Department shall allocate tax revenue collected pursuant to § 58.1-4066 as follows:

3281 1. Twenty-six percent to the locality in which the host location operates;

3282 2. One percent to the Problem Gambling Treatment and Support Fund established pursuant to
3283 § 37.2-314.2;

3284 3. Three percent to the Department, from which amount a sum sufficient shall be appropriated to
3285 fund its operations related to the administration and regulation of electronic gaming devices pursuant to
3286 this article; and

3287 4. Seventy percent to the Virginia Electronic Gaming Device Education Support Fund established
3288 pursuant to § 58.1-4068.

3289 B. Allocation of funds by the Department pursuant to this section shall occur no later than 60 days
3290 after such funds are collected, and only after the Department has verified the accuracy of the collected
3291 balances.

3292 **§ 58.1-4068. Virginia Electronic Gaming Device Education Support Fund.**

3293 There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia
3294 Electronic Gaming Device Education Support Fund, referred to in this section as "the Fund." The Fund
3295 shall be established on the books of the Comptroller. All revenues allocated by the Department under
3296 § 58.1-4067 for deposit into the Fund shall be paid into the state treasury and credited to the Fund.
3297 Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys
3298 remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the
3299 general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of
3300 public education, subject to appropriation.

3301 **§ 58.1-4069. Illegal manufacturing, distributing, or hosting; penalty.**

3302 A. No person shall:

3303 1. Manufacture, sell, or lease to distributors or operators major components or parts, including
3304 software and hardware, for electronic gaming devices without a license issued by the Director.

3305 2. Buy electronic gaming devices from a manufacturer, distribute such devices to or place such
3306 devices at host locations, or maintain and service such devices without a license issued by the Director.

3307 3. Operate an establishment where one or more bona fide electronic gaming devices are made
3308 available for play by the public without a license issued by the Director.

3309 4. Enter into an agreement for the placement of an electronic gaming device until the operator, host
3310 location, and procurement agent, if applicable, are all issued a license by the Director pursuant to this
3311 article.

3312 B. A violation of this section is a Class 6 felony.

3313 **§ 58.1-4070. Underage play prohibited; penalty.**

3314 A. No person shall play any electronic gaming device unless such person is 21 years of age or older.

3315 B. No person shall redeem any evidence of winnings from any person who is not 21 years of age or
3316 older.

3317 C. A violation of this section is a Class 1 misdemeanor.

3318 **§ 58.1-4071. Prohibited acts by host location licensees; penalty.**

A. No host location licensee shall:

1. Permit any person who is not 21 years of age or older to play any electronic gaming device;

2. Give any reward for the play of an electronic gaming device that is not authorized by this article;

or
3. Give any reward for the play of an electronic gaming device that is redeemable at a location other than the host location's ticket redemption terminal.

B. A violation of this section is a Class 1 misdemeanor.

§ 58.1-4072. Illegal tampering with electronic gaming devices; penalty.

No person other than an operator licensee shall possess or use any key or device designed for the purpose of opening, entering, or affecting the operation of an electronic gaming device, or otherwise tamper with an electronic gaming device. A violation of this section is a Class 6 felony.

§ 58.1-4073. Conspiracies and attempts to commit violations; penalty.

A. Any person who conspires, confederates, or combines with another, either within or outside the Commonwealth, to commit a felony prohibited by this article is guilty of a Class 6 felony.

B. Any person who attempts to commit any act prohibited by this article is guilty of a criminal offense and shall be punished as provided in § 18.2-26, 18.2-27, or 18.2-28, as appropriate.

§ 58.1-4074. Exclusion from the applicability of this article.

This article shall not apply to sports betting authorized under Article 2 (§ 58.1-4030 et seq.) of this chapter or casino gaming authorized under Chapter 41 (§ 58.1-4100 et seq.).

§ 58.1-4075. Certain provisions in Article 1 (§ 58.1-4000 et seq.) to apply, mutatis mutandis.

Except as provided in this article, the provisions of Article 1 (§ 58.1-4000 et seq.) shall apply mutatis mutandis to electronic gaming devices under this article. The Board shall promulgate regulations to interpret and clarify the applicability of Article 1 to this article.

§ 58.1-4100. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Adjusted gross receipts" means the gross receipts from casino gaming less winnings paid to winners.

"Board" means the Virginia Lottery and Gaming Oversight Board established in the Virginia Lottery and Gaming Law (§ 58.1-4000 et seq.).

"Casino gaming" or "game" means baccarat, blackjack, twenty-one, poker, craps, dice, slot machines, roulette wheels, Klondike tables, punchboards, faro layouts, numbers tickets, push cards, jar tickets, or pull tabs and any other activity that is authorized by the Board as a wagering game or device under this chapter. "Casino gaming" or "game" includes on-premises mobile casino gaming.

"Casino gaming establishment" means the premises upon which lawful casino gaming is authorized and licensed as provided in this chapter. "Casino gaming establishment" does not include a riverboat or similar vessel.

"Casino gaming operator" means any person issued a license by the Board to operate a casino gaming establishment.

"Cheat" means to alter the selection criteria that determine the result of a game or the amount or frequency of payment in a game for the purpose of obtaining an advantage for one or more participants in a game over other participants in a game.

"Department" means the independent agency responsible for the administration of the Virginia Lottery and Gaming Department created in the Virginia Lottery and Gaming Law (§ 58.1-4000 et seq.).

"Director" means the Director of the Virginia Lottery and Gaming Department.

"Eligible host city" means any city described in § 58.1-4107 in which a casino gaming establishment is authorized to be located.

"Entity" means a person that is not a natural person.

"Gaming operation" means the conduct of authorized casino gaming within a casino gaming establishment.

"Gross receipts" means the total amount of money exchanged for the purchase of chips, tokens, or electronic cards by casino gaming patrons.

"Immediate family" means (i) a spouse and (ii) any other person residing in the same household as an officer or employee and who is a dependent of the officer or employee or of whom the officer or employee is a dependent.

"Individual" means a natural person.

"Licensee" or "license holder" means any person holding an operator's license under § 58.1-4111.

"On-premises mobile casino gaming" means casino gaming offered by a casino gaming operator at a casino gaming establishment using a computer network of both federal and nonfederal interoperable packet-switched data networks through which the casino gaming operator may offer casino gaming to individuals who have established an on-premises mobile casino gaming account with the casino gaming operator and who are physically present on the premises of the casino gaming establishment, as authorized by regulations promulgated by the Board.

3380 "Permit holder" means any person holding a supplier or service permit pursuant to this chapter.

3381 "Person" means an individual, partnership, joint venture, association, limited liability company, stock
3382 corporation, or nonstock corporation and includes any person that directly or indirectly controls or is
3383 under common control with another person.

3384 "Preferred casino gaming operator" means the proposed casino gaming establishment and operator
3385 thereof submitted by an eligible host city to the Board as an applicant for licensure.

3386 "Principal" means any individual who solely or together with his immediate family members (i) owns
3387 or controls, directly or indirectly, five percent or more of the pecuniary interest in any entity that is a
3388 licensee or (ii) has the power to vote or cause the vote of five percent or more of the voting securities
3389 or other ownership interests of such entity, and any person who manages a gaming operation on behalf
3390 of a licensee.

3391 "Professional sports" means an athletic event involving at least two competing individuals who
3392 receive compensation, in excess of their expenses, for participating in such event.

3393 "Security" has the same meaning as provided in § 13.1-501. If the Board finds that any obligation,
3394 stock, or other equity interest creates control of or voice in the management operations of an entity in
3395 the manner of a security, then such interest shall be considered a security.

3396 "Sports betting" means placing wagers on sporting events as such activity is regulated by the Board.

3397 "Supplier" means any person that sells or leases, or contracts to sell or lease, any casino gaming
3398 equipment, devices, or supplies, or provides any management services, to a licensee.

3399 "Voluntary exclusion program" means a program established by the Board pursuant to § 58.1-4103
3400 that allows individuals to voluntarily exclude themselves from engaging in the activities described in
3401 subdivision B 1 of § 58.1-4103 by placing their names on a voluntary exclusion list and following the
3402 procedures set forth by the Board.

3403 **§ 59.1-148.3. Purchase of handguns or other weapons of certain officers.**

3404 A. The Department of State Police, the Department of Wildlife Resources, the Virginia Alcoholic
3405 Beverage Control Authority, the Virginia Lottery and Gaming Department, the Marine Resources
3406 Commission, the Capitol Police, the Department of Conservation and Recreation, the Department of
3407 Forestry, any sheriff, any regional jail board or authority, and any local police department may allow
3408 any full-time sworn law-enforcement officer, deputy, or regional jail officer, a local fire department may
3409 allow any full-time sworn fire marshal, the Department of Motor Vehicles may allow any
3410 law-enforcement officer, any institution of higher learning named in § 23.1-1100 may allow any campus
3411 police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1, retiring on
3412 or after July 1, 1991, and the Department of Corrections may allow any employee with internal
3413 investigations authority designated by the Department of Corrections pursuant to subdivision 11 of
3414 § 53.1-10 who retires (i) after at least 10 years of service, (ii) at 70 years of age or older, or (iii) as a
3415 result of a service-incurred disability or who is receiving long-term disability payments for a
3416 service-incurred disability with no expectation of returning to the employment where he incurred the
3417 disability to purchase the service handgun issued or previously issued to him by the agency or institution
3418 at a price of \$1. If the previously issued weapon is no longer available, a weapon of like kind may be
3419 substituted for that weapon. This privilege shall also extend to any former Superintendent of the
3420 Department of State Police who leaves service after a minimum of five years. This privilege shall also
3421 extend to any person listed in this subsection who is eligible for retirement with at least 10 years of
3422 service who resigns on or after July 1, 1991, in good standing from one of the agencies listed in this
3423 section to accept a position covered by the Virginia Retirement System. Other weapons issued by the
3424 agencies listed in this subsection for personal duty use of an officer may, with approval of the agency
3425 head, be sold to the officer subject to the qualifications of this section at a fair market price determined
3426 as in subsection B, so long as the weapon is a type and configuration that can be purchased at a regular
3427 hardware or sporting goods store by a private citizen without restrictions other than the instant
3428 background check.

3429 B. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer who
3430 retires with five or more years of service, but less than 10, to purchase the service handgun issued to
3431 him by the agency at a price equivalent to the weapon's fair market value on the date of the officer's
3432 retirement. Any full-time sworn law-enforcement officer employed by any of the agencies listed in
3433 subsection A who is retired for disability as a result of a nonservice-incurred disability may purchase the
3434 service handgun issued to him by the agency at a price equivalent to the weapon's fair market value on
3435 the date of the officer's retirement. Determinations of fair market value may be made by reference to a
3436 recognized pricing guide.

3437 C. The agencies listed in subsection A may allow the immediate survivor of any full-time sworn
3438 law-enforcement officer (i) who is killed in the line of duty or (ii) who dies in service and has at least
3439 10 years of service to purchase the service handgun issued to the officer by the agency at a price of \$1.

3440 D. The governing board of any institution of higher learning named in § 23.1-1100 may allow any
3441 campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1

who retires on or after July 1, 1991, to purchase the service handgun issued to him at a price equivalent to the weapon's fair market value on the date of the officer's retirement. Determinations of fair market value may be made by reference to a recognized pricing guide.

E. Any officer who at the time of his retirement is a full-time sworn law-enforcement officer with a state agency listed in subsection A, when the agency allows purchases of service handguns, and who retires after 10 years of state service, even if a portion of his service was with another state agency, may purchase the service handgun issued to him by the agency from which he retires at a price of \$1.

F. The sheriff of Hanover County may allow any auxiliary or volunteer deputy sheriff with a minimum of 10 years of service, upon leaving office, to purchase for \$1 the service handgun issued to him.

G. Any sheriff or local police department may allow any auxiliary law-enforcement officer with more than 10 years of service to purchase the service handgun issued to him by the agency at a price that is equivalent to or less than the weapon's fair market value on the date of purchase by the officer.

H. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer currently employed by the agency to purchase his service handgun, with the approval of the chief law-enforcement officer of the agency, at a fair market price. This subsection shall only apply when the agency has purchased new service handguns for its officers, and the handgun subject to the sale is no longer used by the agency or officer in the course of duty.

2. That the initial adoption by the Virginia Lottery and Gaming Oversight Board (the Board), as renamed by this act, of regulations necessary to implement the provisions of this act shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the Board shall provide an opportunity for public comment on the regulations prior to adoption.

3. That the initial procurement by the Virginia Lottery and Gaming Department, as renamed by this act, of the central monitoring system required by § 58.1-4061 of the Code of Virginia, as created by this act, shall be exempt from the departmental procurement regulations promulgated by the Virginia Lottery and Gaming Oversight Board, as renamed by this act, pursuant to § 58.1-4007 of the Code of Virginia, as amended by this act.

4. That, notwithstanding the provisions of the first enactment of this act to the contrary, (i) until the Virginia Lottery and Gaming Oversight Board (the Board), as renamed by this act, adopts the regulations necessary to implement the provisions of this act pursuant to the second enactment of this act and (ii) the central monitoring system required by § 58.1-4061 of the Code of Virginia, as created by this act, is operational, the Director of the Virginia Lottery and Gaming Department (the Director) may issue a provisional license under the first enactment of this act to any entity that is duly licensed to engage in the manufacturing, distributing, operating, or hosting of any electronic gaming device in another state on July 1, 2021. The Board shall establish procedures for the issuance of provisional licenses. The granting of a provisional license pursuant to this enactment shall not entitle such license holder to the automatic granting of a license pursuant to the first enactment of this act. Holders of provisional licenses pursuant to this enactment shall self-report the information required by § 58.1-4061 of the Code of Virginia, as created by this act, to the Department pursuant to procedures established by the Board. Manufacturing, distributing, operating, or hosting any electronic gaming device at any time between July 1, 2021, and the date upon which (a) the regulations necessary to implement the provisions of this act are adopted and (b) the central monitoring system is operational without obtaining a provisional license pursuant to this enactment or failure to self-report the information required by this enactment may permanently disqualify a person from obtaining a license pursuant to the first enactment of this act. Any such disqualifications shall be within the sole discretion of the Director.

5. That the Virginia Lottery and Gaming Oversight Board, as renamed by this act, and the Virginia Alcoholic Beverage Control Authority shall collaborate in enforcing the provisions of this act and the provisions of Chapters 1217 and 1277 of the Acts of Assembly of 2020.

6. That any contract, or portion of a contract, entered into prior to July 1, 2021, that does not comply with the provisions of this act or with the provisions of Chapters 1217 and 1277 of the Acts of Assembly of 2020 shall be void.

7. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.